

CRM-M-45014-2021 (O&M)

THROUGH VIDEO CONFERENCE
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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.**

Decided on: February 9, 2022.

(1) CRM-M-45014-2021 (O&M).

Satinder @ Shinder Singh

.. Petitioner

VERSUS

State of Punjab

.. Respondent

*** * ***

(2) CRM-M-35526-2021 (O&M).

Vijay Kumar

.. Petitioner

VERSUS

State of Punjab

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

PRESENT

**Mr.V.D.Sharma, Advocate,
for the petitioner in CRM-M-45014-2021 (O&M).**

**Mr.D.P.S.Bajwa, Advocate,
for the petitioner in CRM-M-35526-2021 (O&M).**

Mr.Randhir Singh Thind, DAG, Punjab.

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JASGURPREET SINGH PURI, J. (ORAL)

This order will dispose of the above noted two petitions i.e. CRM-M-45014-2021 and CRM-M-35526-2021 filed under Section 439 Cr.P.C. for the grant of regular bail in FIR No.194 dated 9.5.2021, under Sections 379-B (2), 420, 411, 171 and 120-B IPC and under Sections 25, 27, 54 and 59 of the Arms Act, registered at Police Station Patran, District Patiala.

Both the cases are taken up together for disposal since they are based upon the same FIR and for the sake of brevity, the facts are taken up from **CRM-M-45014-2021**.

As per the FIR which was lodged on the basis of statement made by one Shiv Shankar against one Vishal @ Vijay and 5 other unknown persons, aforesaid Vishal who was known to the complainant for the last 3 years had conspired for extorting money from the complainant and in this way, an amount of Rs.3 lacs was snatched from the complainant.

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Learned counsel for petitioner Satinder @ Shinder Singh has submitted that the petitioner was not named in the FIR and after a period of one month i.e. 11.6.2021, name of the petitioner was nominated on the basis of disclosure statement made by co-accused Vishal @ Vijay. He submitted that such kind of disclosure statement made before the police by a co-accused is not admissible in evidence unless there is other sufficient material available to connect the petitioner with the offence. He submitted

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that petitioner Satinder @ Shinder Singh has clean antecedents and he is not involved in any other case. He submitted that investigation of the case is already complete and charges have been framed on 13.10.2021 but no PW has been examined. He further submitted that although the police has shown recovery of Rs.40,000/- cash and two guns from the petitioner but the petitioner possesses these guns by way of valid licence and therefore, no presumption can be drawn that the petitioner is involved in the present case. He submitted that possessing of guns was a lawful right of the petitioner and therefore, he may be considered for the grant of regular bail.

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Learned counsel for the petitioner has submitted that petitioner Vijay Kumar is in custody since 10.6.2021 and he was nominated on the basis of disclosure statement made by co-accused which is not admissible in evidence. He submitted that keeping in view the long custody of petitioner Vijay Kumar, he may be considered for the grant of regular bail. He submitted that although petitioner Vijay Kumar is involved in many other cases but those cases cannot become a ground for denial of bail to the petitioner.

On the other hand, learned State counsel has submitted that it is correct that the petitioner Satinder @ Shinder is in custody since 11.6.2021 and petitioner Vijay Kumar is in custody since 10.6.2021. He submitted that it is also correct that investigation of the case is complete and charges have been framed but no PW has been examined till date. He submitted that case of Vijay Kumar is totally different from the case of

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Satinder @ Shinder.

So far as petitioner Satinder @ Shinder is concerned, he has clean antecedents and he is not involved in any other case. However, so far as petitioner Vijay Kumar is concerned, the learned State counsel by referring to the affidavit filed by the State has submitted that in para 11 of the affidavit a list of cases against the petitioner has been mentioned. A perusal of the same would show that the petitioner Vijay Kumar is involved in 43 other cases out of which he has been convicted in 7 cases which pertain to the Arms Act, Sections 395, 379 and 302 IPC etc. and in one case he has been declared as proclaimed offender and in number of other cases he is under trial and in some cases he has been acquitted. In one of the case under Sections 395 and 506 IPC, the petitioner has been convicted for 20 years and in one case under Section 302 IPC, the petitioner was convicted and he has undergone the sentence. He submitted that petitioner Vijay Kumar is involved in as many as 43 cases although he has been acquitted in some of the cases and convicted in some of the cases and is undertrial in number of other cases and therefore, he is not entitled for the grant of regular bail as there is every likelihood that the petitioner may either repeat the offence and may even abscond from justice particularly in view of the fact that till date no prosecution witness has been examined and the petitioner may tamper with evidence and may influence the witnesses. Learned State counsel has vehemently opposed the grant of bail to petitioner Vijay Kumar.

I have heard the learned counsel for the parties.

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So far as petitioner Vijay Kumar is concerned, although he is in custody since 10.6.2021 and investigation of the case is already complete but no prosecution witness has been examined as yet. As per the affidavit filed by the State and the arguments addressed by the learned State Counsel, petitioner Vijay Kumar is involved in as many as 43 other cases out of which he has been convicted in 7 cases which pertain to the Arms Act, Sections 395, 379 and 302 IPC etc. In one of the case under Sections 395 and 506 IPC, the petitioner has been convicted for 20 years and in one case under Section 302 IPC, the petitioner was convicted and he has undergone the sentence. In one another case, petitioner Vijay Kumar has been convicted under Section 379 IPC. In one of the case under the Arms Act, petitioner Vijay Kumar was declared as proclaimed offender on 4.12.2018 and in number of other cases he is under trial. Therefore, considering the antecedents of the petitioner Vijay Kumar and the recovery made from him, this Court is not inclined to grant bail to the petitioner Vijay Kumar and accordingly the petition filed by petitioner Vijay Kumar i.e. CRM-M-35526-2021, is hereby dismissed.

So far as petitioner Satinder @ Shinder Singh is concerned, there are no bad antecedents and he is not involved in any other case as per the learned State counsel. Investigation of the case is complete and petitioner was nominated on the basis of disclosure statement made by co-accused. Therefore, petitioner Satinder @ Shinder Singh cannot be said to be at parity with petitioner Vijay Kumar. Furthermore, it is not the case of the State that in case the petitioner Satinder @ Shinder Singh is released

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on bail then he may influence any witness or may tamper with any evidence or may flee from justice. Therefore, this Court deems it fit and proper to grant regular bail to petitioner Satinder @ Shinder Singh. Accordingly, the petition filed by petitioner Satinder @ Shinder Singh i.e. CRM-M-45014-2021 is allowed. It is ordered that the petitioner Satinder @ Shinder Singh shall be released on bail on furnishing bail bond/surety bond to the satisfaction of the trial Court/Duty Magistrate concerned.

Accordingly, petition filed by petitioner Vijay Kumar i.e. CRM-M-35526-2021, stands dismissed whereas petition filed by petitioner Satinder @ Shinder Singh i.e. CRM-M-45014-2021 stands allowed.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant only for the purpose of decision of present petition.

Pending misc. applications, if any, shall also stand disposed of accordingly.

February 9, 2022.
raj arora

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No