

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

210

**CRM-M-41190-2022
Decided on : 27.09.2022**

Sukhmander Singh

. . . Petitioner(s)

Versus

State of Punjab

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Arshdeep Singh Brar, Advocate
for the petitioner(s).

Mr. J.S. Arora, DAG, Punjab.

SANJAY VASHISTH, J. (Oral)

This is the second petition filed under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail to the petitioner, who has been booked for having committed the offences punishable under Section 399, 402 IPC, whereas, Sections 379 & 411 IPC were added later on and Section 25 of the Arms Act, 1959, in FIR No. 08, dated 04.02.2022, registered at Police Station Fatehgarh Panjtoor, District Moga.

At the outset, learned State counsel has filed the custody certificate dated 26.09.2022 in Court today, which is taken on record, subject to all just exceptions. Office to tag the same at appropriate place.

A copy thereof has been handed over to the counsel for the petitioner.

Learned counsel for the petitioner submits that case of the present petitioner is covered with the role attributed to the co-accused Kashmir Singh @ Kala, who has already been granted concession of bail by this Court vide order dated **06.09.2022**, passed in **CRM-M-39430-2022**, titled as, “**Kashmir Singh @ Kala Vs. State of Punjab**”. The order dated

06.09.2022, says as under:-

“This is the second petition filed under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail to the petitioner, who has been booked for having committed the offences punishable under Section 399, 402 IPC, whereas, Sections 379 & 411 IPC were added later on and Section 25 of the Arms Act, 1959, in FIR No. 08, dated 04.02.2022, registered at Police Station Fatehgarh Panjtoor, District Moga.

The earlier petition filed by the petitioner was dismissed as withdrawn with liberty to file a fresh one with better and correct particulars vide order dated 29.08.2022.

Learned counsel for the petitioner submits that petitioner has been involved in the present case without assigning any specific role. He further submits that petitioner is inside jail for the last about 07 months and there is no other case registered against him. Learned counsel for the petitioner also submits that petitioner who is aged about 32 years and is not involved in any other similar case prior to this incident, shows that story framed against him by the police is false and highly improbable, inasmuch as, stereotyped allegation of preparation to commit dacoity has been levelled.

He submits that there are fairly arguable points during the course of the trial showing the innocence of the petitioner. He further submits that further incarceration of the petitioner is not worth in this case.

Learned State counsel has placed on record custody certificate dated 05.09.2022, in Court today. Same is taken on record, subject to all just exceptions.

A copy thereof has been handed over to the learned opposite counsel.

Learned State counsel submits that as per custody certificate total period of custody of the petitioner is 06 months 29 days uptill 05.09.2022 and there is no other case registered against the petitioner till his age of 32 years. Learned State counsel on instructions from ASI Jatinder Kumar, submits that challan has been submitted, however, no prosecution witness has been examined so far.

I have heard learned counsel for the parties and gone through the record with their able assistance.

The petitioner is behind the bars since 04.02.2022. There are fairly arguable points in favour of the petitioner. Without commenting much on the merits of the case, and keeping in view the antecedents of the petitioner, I find that there is substance in the contentions raised by learned counsel for the petitioner. Petitioner, who is aged about 32 years, and no other case has ever been registered against him except the present one.

Accordingly, this criminal miscellaneous petition is allowed. The petitioner is ordered to be released on bail in this case, subject to his furnishing bail/surety bonds to the satisfaction of the learned Chief Judicial Magistrate/Illaq Magistrate/Duty Magistrate concerned, if not required in any other case.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

The observation made hereinabove shall not be construed as an expression on the merits of the case and the Trial Court shall decide the case on the basis of evidence available on record.”

On asking of Court, learned State counsel, on instructions from ASI Nachattar Singh, submits that stage of the trial is the same and after presentation of challan, no prosecution witness has been examined so far. Learned State counsel very fairly concedes that the case of the present petitioner is covered with the role attributed to the co-accused Kashmir Singh @ Kala, who has already been granted the concession of bail by this Court. He further submits that as per custody certificate, petitioner has already undergone 07 months and 20 days period inside jail and there is no other case of similar nature against the petitioner.

I have heard learned counsel for the parties and gone through the record with their able assistance.

There are fairly arguable points in favour of the petitioner. Without commenting much on the merits of the case, and keeping in view the antecedents of the petitioner, I find that there is substance in the contentions

raised by learned counsel for the petitioner. Petitioner, is aged about 32 years, and no other case has ever been registered against him except the present one.

Accordingly, the prayer made in this criminal miscellaneous petition is allowed. The petitioner is ordered to be released on bail in this case, subject to his furnishing bail/surety bonds to the satisfaction of the learned Chief Judicial Magistrate/Illaq Magistrate/Duty Magistrate concerned, if not required in any other case.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

The observation made hereinabove shall not be construed as an expression on the merits of the case and the Trial Court shall decide the case on the basis of evidence available on record.

Petition stands disposed of.

(SANJAY VASHISTH)
JUDGE

September 27, 2022

J.Ram

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No