

CRM-M No. 45318 of 2021 (O&M)
CRM-M No. 5608 of 2022 (O&M)

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

CRM-M No. 45318 of 2021
Date of Decision: 12.05.2022

Harpal Singh @ Kalu

-Petitioner

Vs

State of Punjab

-Respondent

CRM-M No. 5608 of 2022

Kulwinder Singh @ Kinder

-Petitioner

Vs

State of Punjab

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Chandan Singh Rana, Advocate,
for the petitioner.

Mr. C.L. Pawar, Sr. D.A.G., Punjab.

RAJ MOHAN SINGH, J. (ORAL)

Vide this common order, CRM-M No. 45318 of 2021
titled 'Harpal Singh @ Kalu vs State of Punjab' and CRM-M
No. 5608 of 2022 titled 'Kulwinder Singh @ Kinder vs State of
Punjab' are being disposed of.

Since, both the cases have arisen from one FIR,
therefore, common facts are being noticed.

Petitioner(s) seek(s) grant of regular bail under Section 439 Cr.P.C. in case bearing FIR No.83 dated 11.05.2019 under Sections 395, 427, 342 IPC (Offence under Section 411 IPC added later on) and under Section 25 of Arms Act registered at Police Station Sidhwan Bet, District Ludhiana.

Present FIR was registered at the instance of Harmandeep Singh with the allegations that he was posted as Security Guard in the ATM of ICICI Bank, Branch Kishanpura Chowk at Sidhwan Bet. He was on duty on 10.05.2019 from 10.00 P.M. to 6.00 A.M. In the night of 10.05.2019, at about 10.00 PM, the complainant was on duty. At about 2.30/3.00 AM, three persons entered the ATM room with muffled faces. Out of them, two persons were armed with pistols and one was armed with iron rod. One of them put the pistol on the complainant and pushed him out of the ATM room. Four persons were standing outside the ATM room. Two of them were armed with pistols, one was armed with base ball bat and fourth one was armed with iron rod. They were also having muffled faces. They tried to put cloth on the mouth of the complainant and the same was resisted by the complainant. During that process, their faces got uncovered and the complainant identified them. Thereafter, the complainant was made to sit aside. Two of them were talking in Hindi language, whereas one was speaking in the language

prevalent in the area of Amritsar. Thereafter, the complainant heard the noise of breaking of ATM machine. The complainant started feeling stiffness and he requested the accused to put out the cloth from his mouth. After about ½ hour, one person came there with a tractor. Thereafter, all the persons loaded the ATM machine in the tractor and ran away from the spot on the motorcycle and tractor. The persons armed with pistols dropped the complainant near cremation ground. Thereafter, complainant called his friend. FIR came to be registered with this background.

Petitioner(s) is/are in custody since 11.05.2019.

After lodging of the FIR, the police received a secret information and on the basis of secret information, a raid was conducted at the house of Sarwan Singh @ Akashdeep Singh son of Surjan Singh. The police arrested Sarwan Singh @ Akashdeep Singh, Kulwinder Singh @ Kinder and Harpal Singh @ Kalu along with ATM machine and other tools. Thereafter, the Police recorded disclosure statements of Kulwinder Singh @ Kinder and Harpal Singh @ Kalu. On the basis of their disclosure statements, Sukhchain Singh @ Pintu, Rajwinder Singh @ Veeru, Akashdeep Singh son of Jagsir Singh, Sunil Singh @ Sunili and Malkiat Singh @ Sandhu were nominated as co-accused in the FIR. They were also arrested in pursuance

of aforesaid disclosure statements.

Learned counsel for the petitioner(s) submits that the petitioner(s) was/were never identified by the complainant despite his assertion in the FIR. Petitioner(s) has/have been implicated solely on the basis of disclosure statements of co-accused. Only currency notes of Rs.20,500/- have been recovered from Harpal Singh @ Kalu and currency notes of Rs.21,000/- have been recovered from Kulwinder Singh @ Kinder. No currency notes have been recovered from Rajwinder Singh @ Veeru except a motorcycle. An amount of Rs.22,000/- along with motorcycle and one iron rod have been recovered from Akashdeep Singh son of Jagsir Singh.

Learned counsel further submits that recovery of currency notes cannot be termed to be the tainted money for want of mark of identification on the allegedly looted money from the ATM machine. Identity of the petitioner(s) solely on the basis of disclosure statements of co-accused would remain debatable as no test identification parade was conducted in terms of Section 54-A Cr.P.C., which deals with identification of person arrested. Where a person is arrested on a charge of committing an offence and his identification by any other person or persons is considered necessary for the purpose of investigation of such offence, the Court, having jurisdiction, may on the request of the

officer in charge of a police station, direct the person so arrested to subject himself to identification by any person or persons in such manner as the Court may deem fit.

Learned State counsel submits that there was a dock identification in the Police Station, where the complainant has identified three persons namely Raj Kumar @ Raju, Sukhchain Singh @ Pintu and Akashdeep S/o Jagsir Singh on 30.06.2019.

Learned State counsel has not taken any specific stand with regard to test identification parade conducted or not in terms of Section 54-A Cr.P.C.

Co-accused namely Malkiat Singh @ Sadhu, Akashdeep and Rajwinder Singh @ Veeru have been granted regular bail by this Court in CRM-M No.41413 of 2020, CRM-M No.3484 of 2021 and CRM-M No.19903 of 2021 respectively.

Only one prosecution witness has been examined so far.

Petitioner(s) is/are in custody since 11.05.2019.

The trial of the case may take some time in its final culmination.

Taking into consideration the aforesaid fact and circumstances of the case and without meaning anything on the merits of the case, both the petitions are allowed. Petitioners are

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directed to be released on regular bail, subject to their
furnishing adequate bail bonds/surety bonds to the satisfaction
of trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed
to be an opinion on the merits of the case.

12.05.2022
Jyoti Sharma

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No