

CRM-M-46129-2021,
CRM-M-7538-2022 and
CRM-M-46837-2022

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

1. CRM-M-46129-2021
Date of decision : 15.11.2022

Yadwinder @ Yada

...Petitioner

Versus

State of Haryana

...Respondent

2. CRM-M-7538-2022
Date of decision : 15.11.2022

Gunjan Kumar

...Petitioner

Versus

State of Haryana

...Respondent

3. CRM-M-46837-2022
Date of decision : 15.11.2022

Jashandeep

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Sumeet Singh Brar, Advocate for the petitioner
(In CRM-M-46129-2021)

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Mr. Ajay Kamboj, Advocate for the petitioner
(In CRM-M-7538-2022)

Mr. Aditya Sanghi, Advocate for the petitioner
(In CRM-M-46837-2022)

Mr. Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

By this common order, three petitions bearing No.CRM-M-46129-2021, CRM-M-7538-2022 and CRM-M-46837-2022 shall stand disposed of.

CRM-M-46129-2021 has been filed by Yadwinder @ Yada, CRM-M-7538-2022 has been filed by Gunjan Kumar and CRM-M-46837-2022 has been filed by Jashandeep, for grant of regular bail in FIR No.56 dated 05.04.2021 registered under Sections 472, 384, 364-A, 120-B of the Indian Penal Code, 1860 at Police Station Baragudha, District Sirsa, Haryana.

Learned counsel for the petitioners have jointly submitted that in the present case, the petitioners-Yadwinder @ Yada and Gunjan Kumar are in custody since 08.04.2021 and the petitioner-Jashandeep is in custody since 06.04.2021 and investigation is complete and challan has been presented and there are 18 prosecution witnesses, out of which, only one witness has been examined as yet and thus, the conclusion of trial is likely to take time. It is further submitted that in the present case, even as per the case of the prosecution, no injury has been suffered by any person and recovery has already been effected and no purpose would be served by

keeping the petitioners in further incarceration. It is contended that the petitioners are not named in the FIR and initially Jashandeep was arrested on 06.04.2021 and it is on the basis of disclosure statement of said Jashandeep that Yadwinder Singh @ Yada and Gunjan Kumar have been arrested. It is further contended that an amount of Rs.3 lacs has been recovered from Jashandeep and further an amount of Rs.30,000/- has been recovered from Gunjan Kumar.

On the other hand, learned State Counsel has opposed the present petition for grant of regular bail to the petitioners and has submitted that although, from Yadwinder @ Yada, no recovery has been effected but from Gunjan Kumar in addition to Rs.30,000/- even stick (danda) which was used at the time of occurrence has been recovered. It is further submitted that from Jashandeep, apart from Rs.3 lacs, even car which has been used in the alleged offence has been recovered. It is contended that there are other cases against Yadwinder @ Yada and against Jashandeep.

Learned counsel for the petitioners-Yadwinder @ Yada and against Jashandep in rebuttal, have relied upon the judgment of Hon'ble Supreme Court in ***“Maulana Mohd. Amir Rashadi vs. State of U.P. and another”***, reported as ***2012 (2) SCC 382*** to contend that the facts and circumstances of the present case are to be seen and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in another case. The relevant portion of the said judgment is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of

criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

This Court has heard the learned counsel for the parties and has perused the paper book.

In the present case, the petitioners-Yadwinder @ Yada and Gunjan Kumar are in custody since 08.04.2021 and the petitioner-Jashandeep is in custody since 06.04.2021 and investigation is complete and challan has been presented and out of 18 prosecution witnesses, only one witness has been examined as yet and thus, the conclusion of trial is likely to take time. The petitioners were not named in the FIR. The petitioner-Jashandeep was arrested on 06.04.2021 and it is on the basis of disclosure statement of said Jashandeep that Yadwinder Singh @ Yada and Gunjan Kumar have been arrested. The recovery of an amount of Rs.3 lacs has been effected from Jashandeep and further an amount of Rs.30,000/- has been recovered from Gunjan Kumar and further no recovery is to be effected.

Keeping in view the abovesaid facts and circumstances and also in view of law laid down in **Maulana Mohd. Amir Rashadi's** case (Supra), all the petitions are allowed and the petitioners are directed to be released on regular bail on their furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate, subject to them not being required in any other case.

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However, it is made clear that in case, any act is done by the petitioners to threaten the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioners.

Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid judgment.

15.11.2022

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No