

CRM-M-46925-2021 (O&M)

Through video conference
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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.**

Decided on: January 10, 2022.

(1)

CRM-M-46925-2021 (O&M).

Shajad Khan

.. Petitioner

VERSUS

State of Haryana

.. Respondent

*** * ***

(2)

CRM-M-52839-2021 (O&M).

Shajad Khan

.. Petitioner

VERSUS

State of Haryana and another

.. Respondents

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

PRESENT

**Mr.Randhir S. Hooda, Advocate,
for the petitioner in CRM-M-46925-2021.**

**Mr.Mohammad Arshad, Advocate,
for the petitioner in CRM-M-52839-2021.**

Mr.Ranvir Singh Arya, Addl. A.G. Haryana.

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JASGURPREET SINGH PURI, J. (ORAL)

CRM-43648-2021 IN CRM-M-46925-2021

For the reasons recorded in the application, the same is allowed. Annexures P-3 to P-5 are permitted to be taken on record subject to all just exceptions.

Main Cases

This order will dispose of the above noted two petitions i.e. CRM-M-46925-2021 filed under Section 439 of the Code of Criminal Procedure, for the grant of regular bail in FIR No.126 dated 21.8.2021, registered under Sections 153-A, 295-A, 298, 323, 342, 406, 506/34 IPC at Police Station, Rojka Meo, District Nuh and CRM-M-52839-2021, filed under Section 482 of the Code of Criminal Procedure for quashing of the above said FIR and all the subsequent proceedings including report under Section 173 Cr.P.C. qua the petitioner based upon affidavit dated 10.12.2021 (Annexure P-7).

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-46925-2021 in which the petitioner has prayed for regular bail.

(FACTS OF THE PRESENT CASE) CRM-M-46925-2021

FIR in the present case was lodged on the basis of complaint made by one Manoj @ Annas son of Ramesh @ Rajesh stating that a person by the name of Abbu Bakar r/o Salamba, Dilshad Maulana r/o

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Tauru, Maulana Mubin Kharkardi, and Master Sohrab r/o Kharkadi along with his associates lured him to change his religion in the month of April, 2020. Aforesaid Maulana Dilshad by paying some money to him had kept the documents of conversion to Muslim religion with him. They said to him that there is no power in your idol worshipping, insects sit on the idols of deities and by conversion into Islam you have been saved from the fire of hell. All the accused forced him to collect money and grains etc. from the villagers of many villages of Mewat and in turn, the accused sold the entire material and usurped the money. Said money was used by the accused for effecting conversion of other people to Islam and also for buying weapons. It was further stated in the FIR by the complainant that he was forced to consume beef and also Abu Baker gave him beating and also threatened him. He prepared a video in his favour and when his father Ramesh Chand @ Rajesh came to village Salamba, then they told his father to adopt Islam and read Kalma and when he desired reconversion to Hindu religion, he was threatened to be killed. He managed to escape in the month of April, 2021. Abbu Bakar and co-accused also uttered insulting words against Hindu religion, idol worship and Hindu Gods and Goddesses. They came to his village while searching for him and caused beatings to him. It has been further stated by the complainant in the FIR that they are running Dawat-E-Islam and Global Peace Centre and the complainant also came to know about somebody named Kalim Siddique and also an institution named Global Peace Centre which was run by Abbu Bakar, the main aim of which was to search for poor people and convert them into Muslims on the pretext

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of providing money, property etc.

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The present petition has been filed by the petitioner for quashing of FIR as well as all the subsequent proceedings including report under Section 173 Cr.P.C. qua the petitioner based upon affidavit dated 10.12.2021 (Annexure P-5).

SUBMISSIONS ON BEHALF OF THE LEARNED COUNSEL FOR PARTIES

Learned counsel for the petitioner has submitted that the petitioner was not named in the FIR and other three persons have been named as accused and thereafter, even in the statement made under Section 164 Cr.P.C., the petitioner was not named and when challan was presented in the competent Court under Section 173 Cr.P.C. the name of petitioner has figured in the challan but no role has been attributed to the petitioner. He further submitted that the petitioner is innocent and his name has been nominated on the basis of disclosure statement made by co-accused and therefore, so far as petitioner is concerned, the present FIR may be quashed qua the petitioner. He further submitted that complainant himself has given affidavit (Annexure P-7) in which it has been stated that he had adopted Islam in the year 2020 of his own will and without any fear, pressure or greed. It has been further stated in the affidavit that he has never met the petitioner and that FIR is false. It has been further stated in the affidavit filed by complainant – respondent No.2 that FIR should be quashed in this regard.

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On the other hand, learned State counsel has submitted that a detailed affidavit has been filed in the petition for the grant of regular bail and he adopts the same in the petition seeking quashing of the FIR. Learned State counsel by referring to the affidavit filed by the State in the petition for regular bail, has submitted that initially investigation of the case was conducted by HC Kamal Singh and during investigation, the rough site plan was prepared and statements of witnesses were recorded and Sections 342 and 34 IPC were added in the present case on 21.8.2021 and thereafter, investigation was conducted by ASI Dharmender and statement under Section 164 Cr.P.C. of the complainant Manoj was got recorded and his medico-legal examination was also got conducted from CHC Nuh. Thereafter, the investigation of the present case was transferred to the Special Task Force, Gurugram and the investigation was conducted by ASI Raj Singh and during investigation, the complainant joined the investigation on 27.08.2021 and his supplementary statement was recorded. Petitioner Shajad Khan who was already under arrest in another case bearing FIR No. 208 dated 22.08.2021 under Sections 153-A, 295-A, 342 and 506 IPC P.S. City, Nuh, was arrested in the present case on 28.08.2021. His disclosure statement was recorded wherein he admitted the commission of the present offence along with other co-accused. The laptop and mobile phone used in the occurrence were already recovered by the petitioner in above mentioned FIR No. 208 dated 22.08.2021 P.S. City Nuh. The laptop, mobile phone and books recovered from the accused persons in FIR No. 208 dated 22.08.2021 P.S. City Nuh, were taken into possession in the present case also. The

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audio/video posted on the Youtube channel of the trust namely Daawat-e-Islam created by the petitioner and other accused persons were obtained in a pen drive. The video prepared by Times Now News Channel during a sting operation on 27.02.2021, containing the statement of Abu Bakar regarding forcible conversion of people to Islam was also taken into possession. Thereafter, a SIT was constituted by the Superintendent of Police, STF, Gurugram vide order dated 31.08.2021 for conducting the investigation of the present FIR under the supervision of the DSP, STF, Gurugram consisting of four other members and during investigation, the account statement of Dawat-e-Islam trust was obtained and the certified copies of Trust Deed of the said Trust were also obtained from the office of Sub-Registrar, Kashmere Gate, Delhi. The mobile phone and laptop were sent to the Lab for examination and the report was still awaited. It has been further stated in the affidavit that name and role of the petitioner has come forth in the supplementary statement of complainant recorded during the course of investigation and his name and role has also come forth in the disclosure statement of co-accused Abu Bakar recorded in case FIR No. 208 dated 22.8.2021 P.S. City, Nuh.

Learned State counsel has submitted that the petitioner is also involved in other similar cases i.e. aforesaid FIR No. 208 of 2021 P.S. City, Nuh and in the present case also, challan under Section 173 Cr.P.C. has been presented and charges are yet to be framed, and therefore, the present FIR cannot be quashed at the threshold especially in view of the fact that serious allegations have been levelled against the petitioner wherein the

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magnitude of the offence is very high as it pertains to forcibly conversion of the persons from one religion to another religion. He further referred to para 14 of the affidavit wherein serious apprehension has been expressed that in case the petitioner is granted the concession of regular bail, he may try to influence the witnesses and may tamper with the evidence or he may again abscond or flee from justice. He further submitted that investigation in the present case is already going on so far as other co-accused are concerned and the entire subject matter involves larger magnitude wherein number of persons are involved and there are number of other victims also. He submitted that so far as affidavit of complainant Manoj Kumar (Annexure P-5) is concerned, the same appears to have been executed by the complainant under some force and has not been executed before any Executive Magistrate but it is before a Notary Public. He submitted that no importance can be given to such kind of affidavit and therefore, the same is liable to be ignored.

I have heard the learned counsel for the parties.

The investigation of the case is already under way although challan has been presented against two persons i.e. the petitioner and Abu Baker who is also stated to be the main accused in the present case. There is no ground available with the present petitioner to seek quashing of FIR at the threshold especially in view of the fact that the allegations are not only very serious in nature but are also heinous in nature. Gravity and magnitude of the allegations are so high that the FIR cannot be quashed. There is no merit in the petition seeking quashing of FIR and therefore, the

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same is dismissed.

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This petition pertains to the prayer for the grant of regular bail to petitioner. The petitioner is stated to be in custody since 28.8.2021 and the investigation of the case is already complete but serious apprehension has been expressed by the State that in case the petitioner is granted bail, he may influence the witnesses and may tamper with the evidence or he may again abscond or flee from justice. Apart from this, the petitioner is also involved in another case of similar nature i.e. FIR No. 208 dated 22.8.2021, P.S. City, Nuh. Even charges in the present case have not yet been framed. The aforesaid apprehension expressed by the State cannot be ignored considering the seriousness and magnitude of the offence involved. Therefore, this Court does not find any merit in the petition for the grant of regular bail and the same is hereby dismissed.

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 petitions.

January 10, 2022.
raj arora

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No