

CRM-M-47219-2021 (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-47219-2021 (O&M).

KANAV MAHAJAN @ KANU

.. Petitioner

VERSUS

STATE OF PUNJAB

.. Respondent

*** * ***

(2)

CRM-M-52735-2021 (O&M).

GURMEET SINGH @ MEEN

.. Petitioner

VERSUS

STATE OF PUNJAB

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

PRESENT

**Mr.Veenet Sharma, Advocate,
for the petitioner in CRM-M-47219-2021.**

**Mr.Jashandeep Singh Sandhu, Advocate,
for the petitioner in CRM-M-52735-2021.**

Ms.Rashmi Attri, AAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

CRM-M-47219-2021 (O&M).

This order will dispose of the above noted two petitions filed under Section 439 of the Code of Criminal Procedure, for the grant of regular bail in FIR No.112 dated 5.9.2021, under Sections 307, 333, 353, 186 and 120-B IPC and 25 of the Arms Act, 1959, registered at Police Station Sadar Moga, District Moga, Punjab.

Replies have been filed in both the petitions through email. Since the matter is being taken up through video conference, a print out of the same are directed to be taken on record.

Learned counsels appearing for both the petitioners have submitted that it is a case where the FIR was lodged on the allegation that when the police party was patrolling, two persons who had come on a motorcycle had fired upon them from a pistol with the intention to kill them and thereafter, both the aforesaid persons on motorcycle were apprehended and they had disclosed their names as Darshan Singh @ Kala and Nirmal Singh @ Nimma. They have submitted that so far as present two petitioners are concerned, they were not named in the FIR and it was only on the basis of disclosure statement of the co-accused that their names were nominated and they were arrested. It has been further submitted that a bare perusal of the FIR would show that two person had come on the motorcycle who were different persons namely Darshan Singh @ Kala and Nirmal Singh @ Nimma. and so far as present petitioners are concerned, they have no role to play nor they were present at the spot. They further submitted that the allegations are that the petitioners had supplied some cartridges and weapons to the aforesaid two accused who were apprehended from the spot.

Learned counsels have further submitted that it is merely on the basis of

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disclosure statement that the name of the petitioners have been nominated and there is no sufficient material available on the record to show that petitioners are connected in the present case. They submitted that disclosure statement of co-accused is not admissible in evidence. They further submitted that even otherwise also the investigation of the case is already complete and challan has been presented. The petitioner namely Kanav Mahajan @ Kanu is in custody since 12.10.2021 and petitioner namely Gurmeet Singh @ Meen is in custody since 10.09.2021. They further submitted that both the petitioners were earlier involved in another case and purely because of that reason their names have been nominated in the present case and even no recovery has been effected from the petitiones and now investigation of the case is complete and challan stands presented and the trial of the case would take long time and no useful purpose will be served in case the petitioners are put in further incarceration.

On the other hand, learned State counsel has submitted that it is correct that the petitioners are in custody since 10.9.2021 and 12.10.2021 and it is also correct that investigation of the case is already complete and challan has been presented. She further submitted that it is also correct that the petitioners were not apprehended from the spot nor they were present at the spot and their names have been nominated on the basis of disclosure statements of co-accused wherein they have specifically stated that some weapons and cartridges were supplied by the petitioners. She has, therefore, opposed the grant of regular bail to the petitioners.

I have heard the learned counsel for the parties.

Custody period of the petitioners is not disputed and it is

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also not disputed that investigation of the case is complete and challan has also been presented and no recovery is to be effected from the petitioners. It is also not disputed that their names have been nominated purely on the basis of disclosure statements of co-accused. As per learned counsel for parties and FIR, the petitioners were not present at the spot where allegedly the firing had taken place. Mere pendency of another case against the petitioners in which according to the learned counsel for the petitioners, the petitioners are on bail, cannot become a ground for denial of bail to the petitioners. The trial of the case may take long time. Furthermore, it is not the case of the State that in case the petitioners are released on bail then they may influence any witness or may tamper with any evidence or may flee from justice.

Therefore, considering the totality of circumstances, this Court deems it fit and proper to grant regular bail to both the petitioners. Accordingly, both the petitions are allowed. It is ordered that the petitioners shall be released on bail on furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

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.

January 10, 2022.
raj arora

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No