

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

215 (03 cases)

1. CRM-M-1047-2023

GURMEET SINGH ALIAS DOCTOR

..... Petitioner

Versus

STATE OF PUNJAB

..... Respondent

2. CRM-M-14913-2023

HARJINDER SINGH@BHALWAN

..... Petitioner

Versus

STATE OF PUNJAB

..... Respondent

3. CRM-M-10888-2023

KARAN SINGH

..... Petitioner

Versus

STATE OF PUNJAB

..... Respondent

Decided on : April 18, 2023

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Amit Gupta, Advocate for the petitioner(s)
in CRM-M-1047-2023 & CRM-M-10888-2023.

Mr. Mohit Kakkar, Advocate
for the petitioner in CRM-M-14913-2023.

Mr. Anup Singh, AAG, Punjab.

NAMIT KUMAR, J. (Oral)

This order of mine shall dispose of above said three petitions filed under Section 439 Cr.P.C. for grant of regular bail to the petitioners in FIR No. 166 dated 24.09.2022 registered under Sections 379-B, 506 and 34 IPC (Section 201 IPC added later on) at Police Station Kamboj, District Amritsar Rural.

Learned counsel for the petitioners have submitted that the petitioners have been in custody since 25.09.2022 and the investigation is complete and the *Challan* has already been presented and there are 8 witnesses, out of which, none have been examined and thus, the conclusion of trial is likely to take time. It is further submitted that the present FIR has been registered after a delay of 20 days inasmuch as, the alleged incident is of 04.09.2022 whereas the FIR has been registered on 24.09.2022 and the same has been registered on the statement of Lehna Singh, who is stated to be a 70 year old person and who has stated that after the alleged incident had taken place, he had investigated at his own level and then named the accused persons, including the present petitioners, as the persons who had committed the incident on 04.09.2022. It is submitted that it is not the case of the prosecution that it was on the basis of some investigation carried out by the police that the involvement of the present petitioners was found rather the investigation was done by the complainant himself. Learned counsel for the petitioners have further relied upon the affidavit dated 15.11.2022 of the said Lehna Singh wherein he has stated that he had not given any statement against the petitioners and one another co-accused and that the said affidavit was also produced before the learned Sessions Judge, Amritsar. He further contends that the co-accused of the petitioners namely Harjit Singh has already been granted regular bail by a Co-ordinate Bench of this Court vide order dated 23.12.2022 passed in CRM-M-59431-2022 and no recovery has been effected from the present petitioners.

Learned State counsel, on the other hand, has opposed the present petitions for regular bail and filed custody certificates in the Court today, which is taken on record and copies thereof has been supplied to learned counsel for the petitioners. He submits that an amount of Rs. 14,300/- has been recovered from

the Gurmeet Singh (petitioner) in CRM-M-1047-2023, although, he has not denied the fact that no recovery has been effected from the other two petitioners in CRM-M-14913-2023 & CRM-M-10888-2023. It is also submitted that the petitioner-Harjinder Singh is involved in two other cases, wherein he is already on bail and petitioner -Karan Singh is involved in one case, wherein he is also on bail. He further submits that the petitioner – Gurmeet Singh @ Doctor is involved in five cases out of which in two cases he is under-trial, wherein he is also on bail, and in remaining three cases his production warrants have been issued by the concerned trial Courts and out of these, he is on bail in one case. He, however, does not refute the fact that the co-accused of the petitioners namely Harjit Singh has already been granted regular bail by a Co-ordinate Bench of this Court vide order dated 23.12.2022 passed in CRM-M-59431-2022.

Learned counsel for the petitioner, in rebuttal, has 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 while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other cases. 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 learned counsel for the parties and has perused the record.

Keeping in view the above said facts and circumstances moreso, the fact that the petitioners are in custody since 25.09.2022 and the investigation is complete and the *Challan* has already been presented and there are 08 witnesses, out of which, none have been examined and thus, the conclusion of trial is likely to take time and there was a delay of 20 days in the registration of the FIR and also the fact that an affidavit dated 15.11.2022 has been stated to have been given by the complainant stating that the present petitioners are innocent and not involved in the present case and the said affidavit has also been produced before learned Sessions Judge, Amritsar, and co-accused Harjit Singh has been granted regular bail the present petitions are allowed and the petitioners are ordered to be released on bail on their furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to them not being required in any other case.

However, it is made clear that in case, any act is done by the petitioners to threaten or influence 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 a final expression of opinion on the merits of the cases and the trial would proceed independently of the observations made in the present cases which are only for the purpose of adjudicating the present bail petitions.

April 18, 2023
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(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*