

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

Sr. No.214

CRM-M-2055-2023

Date of Decision : February 17, 2023

Jaffar Riaz @ Rizvi

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Siddharth Gupta, Advocate, for the petitioner.

Mr. Pankaj Khullar, AAG, Punjab.

SUDHIR MITTAL, J. (ORAL)

Status report dated 16.02.2023 has been filed on behalf of State of Punjab in Court. The same is taken on record. A copy thereof has been supplied to learned counsel for the petitioner.

According to the allegations in the FIR, the petitioner was supplying sensitive information pertaining to military agencies to people across the border.

Learned counsel for the petitioner has argued that the photos recovered from the mobile phone of the petitioner are not of sensitive areas. Such photographs can exist in the mobile phone of any citizen of the country. Also there is no proof of supply of sensitive information to anybody in Pakistan. Receipt of money by the petitioner in lieu of the alleged material supplied has also not been established. The petitioner has been nominated as an accused only because his wife is a Pakistan national and he remains in touch with her.

On the principle of parity also the petitioner deserves to be granted regular bail as co-accused Mohammad Shamshad has been granted

the concession vide order dated 25.01.2023 passed in CRM-M-3211-2023. The petitioner has undergone actual custody in excess of 08 months and there is no other criminal case pending against him. Thus, he may be granted regular bail.

Custody certificate dated 16.02.2023 checked by Sh. Surinder Singh, Jail Superintendent, Central Jail, Amritsar has been filed in Court. The same is taken on record. A perusal thereof shows that the petitioner has undergone actual custody of 08 months and 25 days and there is no other criminal case pending against him.

Learned State counsel submits that a large number of photographs of military installations have been recovered from the mobile phone of the petitioner. There is also proof that the petitioner was in contact with the intelligence agencies across the border. Evidence also exists of receipt of money. The petitioner is not identically placed as Mohammad Shamshad aforementioned and thus, he does not deserve the concession of regular bail, being a threat to the security of the nation.

A perusal of order dated 25.01.2023 passed in CRM-M-3211-2023 in the case of Mohammad Shamshad shows that the only evidence available against him was that he was in touch with the petitioner i.e. the main accused. No other incriminating material was found against him and thus, he was granted regular bail.

Accordingly, the petitioner cannot claim parity with the said person.

I have also gone through the police record and I find that a large number of photographs of military installations exist in the mobile phone of the petitioner. I see no reason for an ordinary citizen to take

photographs of military personnel and installation unless they are of tourist value. Call records and whatsapp messages have also been exchanged between the petitioner and the persons in the Pakistan and in my considered opinion there is sufficient material available with the police against the petitioner.

The petitioner has been in custody only for a period of 08 months and 25 days and does not deserve the concession of regular bail.

The petition has no merit and is dismissed.

Nothing stated hereinabove shall be construed as an opinion on the merits of the case.

February 17, 2023
Ankur Goyal

(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	No