

CRM-M-22945-2023

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Neutral Citation No. 2023:PHHC:083904

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

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CRM-M-22945-2023

Date of decision : 04.07.2023

Pritpal Singh @ Pinka

.....Petitioner

Versus

State of Punjab

..... Respondent

CRM-M-54381-2023

Rakesh Kumar

.....Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr.Mohit Sadana, Advocate for the petitioner
in CRM-M-22945-2023

Mr.DS Malwai, Advocate for the petitioner
in CRM-M-54381-2023

Mr.HS Sullar, Sr.DAG, Punjab

AMAN CHAUDHARY, J.

1. The present petitions have been filed under Section 439 Cr.P.C.

for the grant of regular bail to the petitioners in case FIR No.77 dated 08.08.2022, registered under Sections 21/22/29 of NDPS Act, Section 25 of the Arms Act and Sections 379, 411, 473, 120-B IPC at Police Station Dhakoli, District SAS Nagar.

2. Learned counsel contends that the petitioners are in custody for the last about 11 months. Their names surfaced based on the disclosure statement of Kulwinder Singh, a property dealer at Kharar and otherwise, unrelated to the case, who allegedly stated that the petitioners were travelling from Sangrur to Chandigarh to collect Heroin. Petitioner-Rakesh

Kumar works in the Court complex to help the litigants filling up certain forms for miscellaneous work, while petitioner-Pritpal Singh @ Pinka has his own business but had an altercation with Kulwinder Singh as he refused to purchase of a flat which Kulwinder Singh was insisting on, so that he gets his commission. Rakesh Kumar had merely accompanied Pritpal Singh @ Pinka, who asked him to come along as he had to meet a patient at PGI, Chandigarh. There is no recovery that was effected from them, as they have been falsely implicated in the case. But for the statement of Kulwinder Singh, there is nothing against the petitioners and no link between them and those named in the FIR from whom the alleged recovery of the contraband was effected. None out of 36 prosecution witnesses have been examined. Petitioner-Rakesh Kumar is not involved in any other case, however, there are two cases pending against petitioner Pritpal Singh @ Pinka, in which, he is on bail. He places reliance on **Maulana Mohammed Amir Rashadi vs. State of Uttar Pradesh and Another** (2012) 2 SCC 382.

3. On the other hand, learned State counsel opposes the prayer of the petitioners on the ground that petitioner Pritpal Singh @ Pinka is a habitual offender, having involved in two cases under NDPS Act and as per the disclosure statement, they were coming together to purchase Heroin. He is however unable to controvert the submissions regarding the stage of the case, period of custody and petitioner-Rakesh Kumar not being involved in any other case, while petitioner-Pritpal Singh @ Pinka is on bail.

4. Heard.

5. Hon'ble The Supreme Court of India in the case of **Maulana**

Mohammed Amir Rashadi (supra) had held that, “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.”

6. Considering facts and circumstances of the case, in particular that the petitioners are in custody for the last 11 months, no recovery was stated to be effected from them, petitioner-Rakesh Kumar is not involved in any other case, whereas, petitioner-Pritpal Singh @ Pinka, is on bail in other cases, none out of 36 PWs, have yet been examined, the trial is likely to take a considerable time, their further incarceration would not serve any useful purpose, thus the prayer for grant of regular bail to the petitioners deserves to be allowed.

7. As a result, the present petitions are allowed. The petitioners are ordered to be released on regular bail on their furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned and subject to their not being required in any other case. The petitioners shall abide by the following conditions:-

1. The petitioners will not tamper with the evidence during the trial.
2. The petitioners will not pressurize/ intimidate the prosecution witnesses.
3. The petitioners will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
4. The petitioners shall not commit an offence similar

to the offence of which, they are accused, or for commission of which they are suspected of.

- 5. The petitioners shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.
- 6. The petitioners shall not in any manner misuse their liberty.
- 7. The petitioners shall furnish their address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioners seek to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.
- 8. The petitioners shall not leave the country without prior permission of the trial Court.
- 9. The trial Court/ Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioners.

8. It is made abundantly clear that in case there is any breach of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioners by this order.

9. In view of the above, it is clarified that the observations made herein are limited for the purpose of present proceedings and would not be construed as any opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

10. Photocopy of the order be placed on the connected file.

04.07.2023
gsv

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No