

CRM-M-25025-2023 (O&M) with
CRM-M-34589-2023

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-25025-2023 (O&M)
Date of Decision: 18.10.2023

Radheshyam Hada Petitioner

Versus

State of Haryana Respondent

CRM-M-34589-2023

Rohit Hadda Petitioner

Versus

State of Haryana Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Balraj Gujjar, Advocate,
for the petitioner (in both cases).

Mr. Vishal Kashyap, DAG, Haryana.

JASGURPREET SINGH PURI, J. (ORAL)

- Both petitions have been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioners and are being taken up together for final disposal with the consent of the learned counsel for the petitioners, since both the petitions arise out of the same FIR bearing No.196 dated 28.05.2022, under Section 34, 341, 365, 392 IPC, registered at Police Station Kasola, District Rewari.
- Learned counsel for the petitioners has submitted that so far as the petitioner-Radheshyam Hada in CRM-M-25025-2023 is concerned, the present is a second petition filed by him and earlier his bail petition was

dismissed on 12.12.2022 vide Annexure P-6 in view of the fact that at that point of time, none of the prosecution witnesses were examined and submitted that so far as the other petitioner-Rohit Hadda in CRM-M-34589-2022 is concerned, this is his first bail petition. He further submitted that the petitioner-Radheshyam Hada in CRM-M-25025-2023 is in custody since 24.07.2022 and the petitioner-Rohit Hadda in CRM-M-34589-2023 is in custody since 19.02.2023 and now the trial is in progress and the material witnesses stand examined. He also submitted that the driver of the canter has already died and it is the case where the allegations were that some persons had looted a truck and had taken away about 7,000 mobile phones along with the canter but both the petitioners were not named in the FIR and it was only on the second disclosure statement of the co-accused that their names were nominated. He further submitted that so far as the petitioner, namely Radheshyam Hada is concerned, he is not involved in any other case whereas petitioner, namely Rohit Hadda is involved in one more case. He also submitted that considering the custody of both the petitioners and the fact that the material witnesses have already been examined and one of the material witnesses, who is the driver, has already died, they may be considered for grant of regular bail.

3. On the other hand, Mr. Vishal Kashyap, DAG, Haryana has submitted that so far as the custody of both the petitioners is concerned, the same is correct and it is also correct that the petitioner, namely, Radheshyam Hada is not involved in any other case but the petitioner, namely, Rohit Hadda is involved in one more case. He further submitted that 3 out of 46 witnesses have been examined and the driver of the canter, who was the

main witness, has already died. He has however expressed an apprehension that since the petitioners belong to the State of Madhya Pradesh, there is a likelihood that in case they are released on regular bail then they may abscond or flee from justice.

4. I have heard the learned counsel for the parties.

5. The petitioner, namely, Radheshyam Hada has already faced incarceration for about 1 year and 3 months and so far as the petitioner, namely, Rohit Hadda is concerned, he is in custody for about 8 months and 3 material witnesses have already been examined. From the allegations, it appears that the driver of the canter was the star witness but as per the learned counsel for the parties, he has already died. The apprehension expressed by the learned State counsel that the petitioners belong to the State of Madhya Pradesh and they may abscond cannot be accepted in view of the fact that they have already faced incarceration for about 1½ years and they can always be granted bail subject to adequate surety. Apart from the above both the petitioners were nominated on the basis of second disclosure statement of the co-accused. Therefore, considering the aforesaid facts and circumstances, this Court deems it fit and proper to grant regular bail to both the petitioners.

6. Consequently, both the petitions are allowed and both the petitioners are ordered to be released on bail on furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned, if not required in any other case.

7. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the

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purpose of decision of present petition.

18.10.2023 (JASGURPREET SINGH PURI)
Bhumika JUDGE

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |