

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

205

(1) CRM-M-29076-2022
Date of Decision :07.02.2023

Santokh Singh @ Manga

...Petitioner

Versus

State of Punjab

...Respondent

(2) CRM-M-29080-2022

Gurdas Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Amit Dhawan, Advocate for the petitioner(s).

Mr. Gurvinder Singh, AAG, Punjab.

Mr. Sushant Kareer, Advocate for the complainant.

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Harsimran Singh Sethi, J. (Oral)

By this common order, the above mentioned two petitions are being disposed of as both the petitions are arising out of the same FIR.

The present petitions have been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioners in respect of FIR No.10 dated 15.01.2021 registered under Sections 323, 452, 148, 149 and 506 of the IPC

(Sections 325, 307 and 459 of the IPC added and Section 452 of the IPC deleted later on) at Police Station Fattudhinga, District Kapurthala.

Learned counsel for the petitioners argues that the petitioners are behind the bars for the last approximately two years and investigation is already over and challan has also been presented and despite giving due opportunities to the complainant as well as victim, they are not appearing before the trial Court for recording of their testimony, which fact is clear from the zimini orders passed by the trial Court. Learned counsel for the petitioners submits that even after giving undertaking before this Court that the complainant as well as victim would appear before the trial Court for recording of their testimony on the next date fixed before the trial Court, they did not come present before the trial Court to record their testimonies, which shows that the only endeavour of the complainant is to keep the petitioners behind the bars as long as possible. Learned counsel for the petitioners further submits that the investigation is already over and challan has also been presented and charges have already been framed and as out of the 39 cited witnesses, none has been examined so far, the trial is likely to take some time before it concludes hence, keeping the petitioner behind the bars will serve no useful purpose and petitioners may kindly be extended the benefit of regular bail.

Learned State counsel concedes the fact that the investigation is over and challan has already been presented and charges have also been framed. It is also conceded by the learned State counsel that out of the total 39 cited witnesses, none has been examined so far though, various opportunities have been granted to the complainant and other material

witnesses to appear before the trial Court for recording of their testimony which opportunities they have failed to avail.

Learned counsel for the complainant concedes the fact that despite giving undertaking before this Court to appear before the trial Court for recording of testimony, the complainant and victim have not appeared before the trial Court but submits that as the allegations against the petitioners are serious in nature, the prayer of the petitioners for the grant of concession of regular bail may kindly be declined.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

While considering the claim of the petitioners for the grant of concession of regular bail, this Court is only to ascertain whether keeping the petitioners behind the bars will serve any purpose or not. In the present case, the investigation is already over and challan has also been presented and charges have been framed and out of the 39 cited witnesses, none has been examined so far, which fact shows that trial is likely to take some time before it concludes. Further, the complainant as well as victim were given due opportunities to record their testimony while the petitioners are behind the bars but despite the grant of various opportunities and even after giving undertaking before this Court to appear before the trial Court for recording their testimony, the complainant and the victim have not come forward which prima facie shows that they are trying to delay the proceedings intentionally.

Keeping in view the facts noticed hereinbefore, the petitioners have made out a case for the grant of concession of regular bail especially,

when learned counsel for the petitioners has undertaken before this Court that the petitioners will not obstruct the trial or influence the witnesses, whose statements are yet to be recorded in any manner. In case of default of the above undertaking, the State will be at liberty to approach this Court for passing appropriate orders.

Without commenting upon the merits of the case, it is directed that the petitioners be released on regular bail, subject to the satisfaction of trial Court/Duty Magistrate concerned.

However, it is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case.

A photocopy of this order be placed on the file of connected case.

February 07, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

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