

CRM-M-29945-2023

2023:PHHC:137008  
-1-

(224)  
IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-29945-2023  
Date of Decision: 19.10.2023

MOHD. RAFIQ

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CRM-M-29980-2023

MOHD. RIJAUB

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CRM-M-33572-2023

SMT. MANA DEVI

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CRM-M-30507-2023

FIRDOUS

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Ms. Garima Sharma, Advocate  
for the petitioners in CRM-M-29945-2023,  
CRM-M-30507-2023 and CRM-M-29980-2023.

Mr. Nikhil Batta, Advocate  
for the petitioner in CRM-M-33572-2023.

Mr. Harkanwar Jeet Singh, Asstt. A.G., Punjab.

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**JASJIT SINGH BEDI, J.**

This order shall dispose of four petitions bearing No.CRM-M-29945-2023 titled as Mohd. Rafiq Vs. State of Haryana, CRM-M-29980-2023 titled as Mohd. Rijaub Vs. State of Haryana, CRM-M-33572-2023 titled as Mana Devi Vs. State of Haryana and CRM-M-30507-2023 titled as Firdous Vs. State of Haryana as the same are arising out of the same FIR. However, for the sake of convenience the facts have been taken from CRM-M-29945-2023.

2. The prayer in the present petitions under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.226 dated 13.04.2023 registered under Sections 420/120-B IPC at Police Station Ambala City, Ambala.

3. The present FIR came to be registered at the instance of Vikram Singh son of Randhir Singh who stated that he was running two shops of clothes and shoes at Sai Market, Shahzadpur. On 11.04.2023, two boys came to his shop. They bought slippers from him after which they showed him a currency note of 20 dollars. On being asked about the same, the boys disclosed that their aunt was a maid servant at a house in Delhi and on account of the death of the house owner, some clothes tied in a bundle had been given to their (accused person's) aunt to throw away. The said bundles of clothes contained dollar notes. On a negotiation, he (complainant) agreed to purchase a 20 dollar note for Rs.190/-. Thereafter, the boys told him that they would contact their aunt, count the number of dollar notes and would inform him (complainant). On 12.04.2023, he received a phone call and was

asked to come to Saha. He along with his friend Ajay Kumar son of Yudhveer Singh went to Saha in their car. Along with two boys who had come earlier, there was another boy carrying a bag a stack of 20 dollar notes. However, due to non-availability of money, they (complainant party) went back. On 13.04.2023, he (complainant) again got a call that they (accused party) would be coming to Ambala with the dollar notes. They stated that they had 1735 notes of 20 dollars each for which they demanded Rs.3,40,000/-. After collecting the said amount from his friends and relatives, they (complainant party) started waiting for the boys. At around 06.00 PM the boys came towards them (complainant party) and gave him a bag stating that the said bag contained 1735 notes of 20 dollars each. He (complainant) started opening the bag to check for the dollars. Meanwhile, the boy took an amount of Rs.3,40,000/- from him (complainant) and started making a noise. Thereafter, they (accused boys) fled away with the money. When he (complainant) opened the bag, it was found to contain a bundle of newspaper cuttings. They searched for the boys who could not be found. Thus, they had been cheated of an amount of Rs.3,40,000/-.

Pursuant to the registration of the aforementioned FIR, the Investigating Agency collected the CCTV footage from the shop of the complainant situated at Shahzadpur. On 17.04.2023, on the basis of secret information Mohd. Firdous (petitioner in CRM-M-30507-2023) son of Abdul Lateef resident of Bangalore (Karnataka) and Mohd. Majibur Rehman son of Abdul Lateef resident of village Pathamara, District Bagerhut, Bangladesh were arrested along with the motorcycles used in the commission of the

CRM-M-29945-2023

offence. During their personal search, one note each of 20 dollars was recovered and taken into possession.

The aforementioned accused were interrogated and disclosed the names of Modh. Rafiq (petitioner in CRM-M-29945-2023) son of Rashid Mohd, Rijaub @ Rejol (petitioner in CRM-M-29980-2023) son of Rashid both residents of Buland Shahar, Mohd. Mijanur Rehman son of Abdul Lateef resident of Bangladesh, Mana (petitioner in CRM-M-33572-2023) wife of Narain Dass, resident of District Bareilly (UP) and Shabir, Raju and Narain residents of Bareilly.

As per investigation, Mohd. Rafiq was a member of their gang for the purposes of conducting a recee and was given Rs.2000/- as his share. The main accused were stated to be Shabir, Mohd. Firdous (petitioner in CRM-M-30507-2023) and Mohd. Majibur Rehman who had made the plan and had executed the same with the help of other co-accused namely, Mohd. Rafiq, Mohd. Rijaub @ Rijol, Mohd. Mijanur Rehman and Mana wife of Narain Dass.

During the course of investigation, Mohd. Firdous got recovered an amount of Rs.20,500/- and co-accused Mijuber Rehman got recovered Rs.19,500/-

On 20.04.2023, Mohd. Firdous got recovered a bag of co-accused Shabir (Contractor). The bag contained Rs.80,000/- along with the documents of a motorcycle purchased in the name of Shabir.

Meanwhile from the Court Complex at Ambala City, Mohd. Rijaub @ Rijol, Mohd. Rafiq and Mohd. Rijana Rehman were apprehended. The recovery of Rs.1000/- came to be effected from Mohd. Rafiq.

Thereafter, Mana wife of Narain Dass was arrested. Rijaub @ Rijol got recovered Rs.1200/-, Mohd. Mijanur Rehman got recovered Rs.1300/- and accused Mana was recovered Rs.2500/-.

Shabir, Raju and Narain could not be arrested.

After the completion of investigation, the report under Section 173(2) Cr.P.C. submitted against six accused namely, Mohd. Rafiq, Mohd. Rijaub @ Rijol, Mana Devi, Mohd. Firdous, Mohd. Mijanur Rehman and Mohd. Majibu Rehman.

4. The learned counsel for the petitioners contend that the petitioners have been falsely implicated in the present case. The recovery of money has been foisted upon them. No independent witness has been joined at the time of recovery. As the petitioners were in custody since 21.04.2023 respectively, none of the 11 prosecution witnesses had been examined so far, the case was triable by the Court of a Magistrate and the petitioners had clean antecedents, they were entitled to the concession of bail.

5. On the other hand, the learned State counsel while referring to the replies dated 29.07.2023, 01.08.2023, 11.07.2023 and 17.10.2023 filed in each case contends that all the petitioners including the two foreign nationals who were citizens of Bangladesh had cheated the complainant of an amount of Rs.3,40,000/-. Therefore, the nature of the allegations against the petitioners and their co-accused did not entitle them to the grant of bail. He, however, concedes that the petitioners are first-time offenders, in custody since 21.04.2023 respectively, none of the 11 prosecution witnesses had been examined so far and that the case is triable by the Court of a Magistrate.

6. I have heard the learned counsel for the petitioners.

7. This Court in the case titled as ***Maninder Sharma Vs. State Tax Officer, State, Mobile Wing, Jalandhar, Punjab bearing CRM-M24033-2021(O&M) Decided on 31.08.2022*** has held as under:-

*“Therefore, broadly speaking (subject to any statutory restrictions contained in Special Acts) , in economic offences involving the IPC or Special Acts or cases triable by Magistrates once the investigation is complete, final report/complaint filed and the triple test is satisfied then denial of bail must be the exception rather than the rule. However, this would not prevent the Court from granting bail even prior to the completion of investigation if the facts so warrant.”*

8. In the instant case, admittedly, the petitioners are in custody since 21.04.2023 respectively. None of the 11 prosecution witnesses have been examined so far. Therefore, the trial of the present case is not likely to be concluded anytime soon. They are also stated to be first-time offenders. There are no serious apprehensions expressed by the State that the petitioners would abscond from justice, tamper with the evidence or influence witnesses if granted the concession of bail. Therefore, in this situation, the further incarceration of the petitioners is not required.

9. Thus without commenting on the merits of the case, the present petitions are allowed and the petitioners are ordered to be released on bail on their furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

10. The petitioners shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that they are not involved in any other crime other than the present case.

11. If the petitioners or their family members/associates make any attempt to contact/threaten/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted vide this order.

12. In addition, the petitioners (or anyone on their behalf) shall prepare an FDR in the sum of Rs.50,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioners from trial without sufficient cause.

13. The petitions stand disposed of.

(JASJIT SINGH BEDI)  
JUDGE

19.10.2023

JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No