

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-34209-2022 (O&M)
Date of Decision:-01.06.2023

GULSHER @ KALA @ BALLU

... Petitioner

Versus

STATE OF HARYANA

... Respondent

-.-

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

-.-

Present:- Mr. Ajay Kumar Rana, Advocate
for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana.

-.-

KARAMJIT SINGH, J. (Oral)

CRM-24031-2023

In view of the reasons mentioned in the application, the same is
allowed and the main case is ordered to be taken on board today itself.

CRM-24032-2023

For the reasons mentioned in the application, the same is allowed and
documents Annexure P-1 and Annexure P-2 are ordered to be taken on
record subject to all just exceptions.

Main Case

1. Prayer is for grant of regular bail in case having FIR No.236 dated 13.6.2020 registered under Sections 307, 380, 457, 511, 34 IPC and Section 25 of Arms Act (Sections 186, 332, 353 IPC added later on) at Police Station City Kaithal, District Kaithal.
2. FIR in this case was registered against unidentified persons, who made an attempt to uproot and take away ATM from the area of Kaithal at about 1 am on 13.6.2020.
3. The counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and FIR in this case was registered against unknown persons and the petitioner was later on nominated as an accused on the basis of alleged confessional statement made by the petitioner before the police, when he was in custody in another criminal case. The counsel for the petitioner further submits that such type of confessions are inadmissible in evidence and further the alleged recovery of pistol was made by the police of Uttar Pradesh at the time of his arrest in some another criminal case. The counsel for the petitioner further submits that recovery of alleged pistol and car has been planted by the police and actually no such recovery was ever effected from the petitioner. The counsel for the petitioner further submits that the petitioner is incarcerated since 5.1.2021 and till date charges are not framed and co-accused Rukamdin @ Rukma and Sadik have been granted regular bail by this Court vide orders Annexures P-1 and P-2 and prayed that the petitioner be granted concession of regular bail.

4. The instant petition is resisted by the State counsel, who on instructions from SI Bijender Singh submits that the petitioner actively participated in the occurrence, which took place on 13.6.2020 when some persons tried to uproot the ATM installed in the area of Kaithal. However, the State counsel has not disputed the fact that firstly the petitioner was arrested in some another case by the police of Uttar Pradesh, wherein he confessed about his involvement in the present case and only thereafter the petitioner was arrested in the present case and recovery of firearm and car were effected from him. The State counsel further apprised the Court that the petitioner is having criminal antecedents. However the State counsel has not disputed the fact that petitioner is in custody in the present case since 5.1.2021 and after presentation of challan, charges have not been framed in the present case.
5. I have considered the submissions made by counsel for the parties.
6. Admittedly, the FIR in question was registered against unknown persons, who tried to uproot the ATM in the area of Kaithal during night time. The petitioner was nominated as accused on the basis of his own confessional statement which he allegedly made in some another criminal case relating to Uttar Pradesh and then the petitioner was arrested in the instant case on 5.1.2021 and as per the State counsel, one pistol and one car were recovered at the instance of the petitioner. Admissibility and reliability of the confessional statement made by the petitioner before the police is apparently hit by provisions of Section 25 of the Evidence Act and furthermore will be tested

during the trial. After completion of investigation, police has presented the challan but charges are yet to be framed and only thereafter the trial will commence and it will take considerable time for the trial to terminate, so no fruitful purpose is going to be served by prolonging judicial custody of the petitioner for indefinite period.

7. Thus, without commenting on the merits of the case, the petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail and surety bonds to the satisfaction of the trial Court/CJM/Duty Magistrate concerned.

01.06.2023
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No