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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of Decision: 19.07.2023

1. CRM-M No.33425 of 2023 (O&M)

Daljit Singh @ Pinka Petitioner
V/s.
State of HaryanaRespondent

2. CRM-M No.32889 of 2023 (O&M)

Kala @ Jagjit Singh Petitioner
V/s.
State of HaryanaRespondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Sahil Choudhary, Advocate
for both the petitioners.

Mr. Vishal Kashyap, DAG, Haryana.

Mr. Manoj Pundir, Advocate for the complainant.

JASGURPREET SINGH PURI, J (Oral)

1. Both the petitions are taken up together with the consent of learned counsel for the parties. The present petitions have been filed under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail to the petitioner in FIR No.152 dated 25.09.2021, under Sections 148, 149, 323, 325, 326, 427, 506, 307, 302, IPC, 1860 registered at Police Station Sadar Jagadhari, District Yamuna Nagar.

2. Learned counsel for the petitioners submitted that the petitioners are in custody for 01 year and 09 months and in the present case. Daljit Singh-petitioner in CRM-M-33425-2023 had earlier filed petition for regular bail before this Court which were dismissed but now there is change in earlier circumstances and that is why the petitioner has now filed the present petition. So far as Kala Singh-petitioner in CRM-M-32889-2023 is concerned, this is his first bail petition. It is submitted that the earlier bail petitions of Daljit Singh were dismissed in view of the fact that the complainant who was injured was not examined. It is submitted that in the present case, the complainant was examined-in-chief on 28.10.2022 and it is almost 10 months that have passed that thereafter he has not come forward and subjected himself for cross examination. Learned counsel for the petitioners submits that one of the reasons was that a separate application was moved by the prosecution under Section 319 of the Cr.P.C. for summoning of the additional accused which has since been allowed but due to aforesaid reason, the petitioners have suffered incarceration for 01 year and 09 months and it is a case where the petitioners are not having any criminal background and are not involved in any other case. He has further submitted that even as per the prosecution the role attributed to the petitioner-Daljit Singh was giving of a *danda* blow to one Gurjeet Singh. He further submitted that so far as other petitioner namely Kala Singh is concerned, the role attributed to the petitioner is inflicting *danda* blow to the complainant.

3. Learned counsel for the petitioners further apprised this Court that one of the other co-accused namely, Vikramjeet Singh who was also arrested and the role attributed to him was also inflicting a *danda* blow has been extended the benefit of regular bail by Coordinate Bench of this Court (Annexure P-6) and since

these two petitioners are also at parity, they may also be granted regular bail. It is further submitted that the petitioners are not involved in any other case.

4. On the other hand, learned counsel appearing for the State has submitted that the delay if any was not attributed to the prosecution because one of the co-accused was absconding and an application under Section 319 of Code of Criminal Procedure was filed which was ultimately allowed and therefore the complainant was not cross examined for a long time. So far as the antecedents of the present petitioners are concerned, he has not disputed the same and stated that both the petitioners have clean antecedents.

5. I have heard learned counsel for the parties.

6. It is a case where the both the petitioners have faced incarceration of about 01 year and 09 months and they have clean antecedents. One of the other co-accused namely Vikramjeet Singh has been extended benefit of regular bail by a Coordinate Bench of this Court and it appears that the aforesaid present petitioners are at parity with that co-accused. The complainant of the present case was examined in chief on 28.10.2022 which is almost 09 months back and not cross-examined till date. Whatever may be the reasons, as stated by learned counsel for the respondent, it was because of moving of an application under 319 Cr.P.C. by the prosecution but the fact remains that the net result was that total custody of the petitioners has come out to be 01 year 09 months and they are not having any other criminal background.

7. In view of the aforesaid peculiar facts and circumstances of the case, this Court deems it fit and proper to grant bail to both the petitioners.

8. Consequently, the present petitions are allowed. The petitioners shall be released on regular bail subject to furnishing bail bonds/surety to the

satisfaction of the learned trial Court/Duty Magistrate concerned, if not required in any other case.

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

10. Since the main petition(s) have been allowed, all the pending application(s) also stand(s) disposed of.

19th July, 2023

Sonia Puri

(JASGUPREET SINGH PURI)
JUDGE

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