

CRM-M-36315-2023 and
CRM-M-36750-2023

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2023:PHHC:115187

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision: 01.09.2023

(I) CRM-M-36315-2023

JOGINDER SINGH

...Petitioner

VERSUS

STATE OF PUNJAB

...Respondent

(II) CRM-M-36750-2023

BOOTA SINGH @ BUTA SINGH

...Petitioner

VERSUS

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. J. S. Dadwal, Advocate
for the petitioner in CRM-M-36315-2023.

Mr. Kushagra Mahajan, Advocate
for the petitioner in CRM-M-36750-2023.

Mr. Harsimar Singh Sitta, DAG, Punjab.

JASGURPREET SINGH PURI, J. (Oral)

1. Both these petitions are taken up together for final disposal with
the consent of learned counsel for the parties since both these petitions arise out

of the same FIR and the prayer in both these cases is for the grant of regular bail to the petitioners.

2. Both these petitions have been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioners in FIR No.75 dated 21.05.2023, under Sections 295-A, 323, 324, 307, 427, 452, 148 and 149 of the IPC, registered at Police Station Chattiwind, District Amritsar Rural, Punjab.

3. Both the learned counsel for the petitioners have submitted that both the petitioners have been falsely implicated in the present case only because of the reason that they were present at the time when number of people had assembled and no overt act has been attributed to the petitioners in the present cases. They further submitted that now the investigation of the case has been completed by the police and challan also stands presented and the trial may take a long time to conclude and therefore the petitioners may be considered for grant of regular bail. They further submitted that one of the other co-accused, namely, Gurjant Singh, who was also present in the gathering but was not attributed any overt act has been granted interim anticipatory bail by this Court in CRM-M-31144-2023 on 28.08.2023. They further submitted that so far as the present petitioners are concerned, they have clean antecedents and they are not involved in any other case.

4. On the other hand, Mr. Harsimar Singh Sitta, DAG, Punjab submitted that it is correct that Joginder Singh (petitioner in CRM-M-36315-2023) is in custody from 12.06.2023 and Boota Singh @ Buta Singh (petitioner in CRM-M-36750-2023) is in custody from 24.05.2023 and it is also correct

that the investigation of the case has been completed and challan stands presented. He further submitted that the aforesaid co-accused, namely, Gurjant Singh has already been granted interim anticipatory bail by this Court as aforesaid. He further submitted on instructions from ASI Tarlok Singh that both the petitioners were seen in the footage but they were empty handed but certainly were present on the spot. So far as the criminal antecedents of the petitioners are concerned, he submitted on instructions that both the petitioners have clean antecedents.

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

6. Joginder Singh (petitioner in CRM-M-36315-2023) is in custody from 12.06.2023 and Boota Singh @ Buta Singh (petitioner in CRM-M-36750-2023) is in custody from 24.05.2023 and the investigation of the case has been completed and challan also stands presented. The aforesaid co-accused has already been granted interim bail by this Court on 28.08.2023. During the course of arguments, learned State counsel on instructions has submitted that both the petitioners were empty handed and were not carrying any kind of weapon etc. with them.

7. Therefore, considering the aforesaid totality and circumstances of the present case, especially the fact that the petitioners have no criminal background and the investigation of the case has already been completed and also it is not the case of the learned State counsel that in case the petitioners are released on bail, then they may influence any witness or may tamper with evidence or may flee from justice, this Court deems it fit and proper to grant regular bail to both the petitioners.

8. Consequently, both the petitions are allowed. The petitioners shall be released on regular bail subject to furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.

9. At this stage, it was pointed out by learned State counsel that during the course of investigation, the provision of Section 295-A of the IPC has been deleted and provision of Section 295 of the IPC has been added and substituted. Both the learned counsel for the petitioners have submitted that in view of the aforesaid statement made by learned State counsel, their oral request for substitution of the said Section may be accepted. The oral request made by learned counsel for both the petitioners for substitution of aforesaid Section is accepted. It is therefore directed that in the head note and prayer clause of the petitions, Sections 295-A, 323, 324, 307, 427, 452, 148 and 149 of the IPC be now deem to be substituted and read as Sections 295, 323, 324, 307, 427, 452, 148 and 149 of the IPC.

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

01.09.2023
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

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