

CRM-M-45120-2023 with
CRM-M-50048-2023

228+279

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-45120-2023 (O&M)
Date of Decision: 21.11.2023

Sher Ali

..... Petitioner

Versus

State of Punjab

..... Respondent

CRM-M-50048-2023

Resham Ali @ Reham Ali

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Amaninder Preet, Advocate,
for the petitioner (in both cases).

Mr. G.S. Sidhu, AAG, Punjab.

Mr. G.S. Gopera, Advocate for
Mr. Manoj K. Sharma, Advocate,
for the complainant.

JASGURPREET SINGH PURI, J. (ORAL)

1. Both petitions have been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioners and are being taken up together for final disposal with the consent of the learned counsel for the petitioners, since both the petitions arise out of the same FIR bearing No.22 dated 28.02.2022, under Sections 364-A, 365, 120-B, 506, 148 & 149 IPC, registered at Police Station Verowal, District Tarn Taran.

2. Learned counsel appearing on behalf of both the petitioners

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submitted that the petitioner-Sher Ali in CRM-M-45120-2023 is in custody from 28.06.2023 and the petitioner-Resham Ali @ Reham Ali in CRM-M-50048-2023 is in custody from 03.06.2023 and further submitted that the challan qua them has already been presented after the completion of investigation by the police. He further submitted that both the petitioners have clean antecedents and are not involved in any other case. While referring to the contents of the FIR, learned counsel for the petitioners submitted that as per the FIR, one Mohammad Sharif had made a complaint with the police that when he was going along with his niece, namely, Soma, then she was abducted by some persons and since those persons were belonging to the same community, he could identify them and the name of the aforesaid persons as per the complainant who had abducted her, was specifically mentioned in the FIR. He submitted that the name of both the petitioners did not figure in the FIR and it was later on when the aforesaid lady got recorded the statement under Section 164 Cr.P.C., then she named both the petitioners which was an afterthought and an improved version in order to falsely implicate the petitioners and to put pressure upon them. He further submitted that when the bail of the petitioner, namely, Sher Ali was being considered by the learned trial Court, then she again retracted from her earlier statement and rather stated before the learned Magistrate that the petitioner-Sher Ali is innocent and in this regard he made reference to Annexure P-14. He also submitted that one of the other co-accused, namely, Santosh, whose name was specifically mentioned in the FIR, has since been extended the benefit of regular bail by a Co-ordinate Bench of this Court vide Annexure P-13 and both the petitioners are rather at better footing than

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the aforesaid co-accused, and therefore, they may also be considered for the grant of regular bail.

3. On the other hand, Mr. G.S. Sidhu, learned AAG, Punjab submitted that so far as the custody of both the petitioners is concerned, the same is correct and it is also correct that both the petitioners have clean antecedents and are not involved in any other case. He further submitted that earlier the name of the petitioners did not figure in the FIR but it was on the basis of the statement under Section 164 Cr.P.C. that their name was mentioned by the aforesaid lady and therefore, they were nominated in the present case.

4. Learned counsel appearing on behalf of the complainant has stated that both the petitioners were also present when the abduction took place.

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

6. The petitioner, namely, Sher Ali is in custody from 28.06.2023 and the petitioner, namely, Resham Ali @ Reham Ali is in custody from 03.06.2023. The investigation of the case has already been completed and thereafter, challan qua the present petitioners have also been presented before the competent Court. Name of both the petitioners are stated to be not mentioned in the FIR but later on, their name was nominated. One of the co-accused, namely, Santosh, whose name was specifically mentioned in the FIR, has been extended the benefit of regular bail vide Annexure P-13. It is clear that both the petitioners are on better footing than the aforesaid co-accused. Both the petitioners are stated to be having clean antecedents and are not involved in any other case. Furthermore, it is neither the case of the

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State nor it has been so argued by the learned State counsel that in case both the petitioners are released on bail then they may abscond or flee from justice or may repeat the offence. Therefore, considering the aforesaid facts and circumstances, this Court deems it fit and proper to grant regular bail to both the petitioners.

7. Consequently, both the petitions are allowed and both the petitioners are ordered to be released on bail on furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned, if not required in any other case.

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

21.11.2023

Bhumika

(JASGURPREET SINGH PURI)

JUDGE

1. Whether speaking/reasoned:	Yes/No
2. Whether reportable:	Yes/No