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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision: 12.12.2023

(I) CRM-M-47757-2023

RADHEY SHYAM

...Petitioner

VERSUS

STATE OF HARYANA

...Respondent

(II) CRM-M-53953-2023

SURINDER

...Petitioner

VERSUS

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Navjit Singh, Advocate and
Mr. Ankush Singla, Advocate
for the petitioner in CRM-M-47757-2023.

Mr. Mandeep Nehra, Advocate
for the petitioner in CRM-M-53953-2023.

Mr. Vijesh Sharma, Addl. A.G., Haryana.

JASGURPREET SINGH PURI, J. (Oral)

1. Both the petitions are taken up together for final disposal with the consent of learned counsel for the parties since both the petitions arise out of the same FIR and the prayer in both the cases is for the grant of regular bail.

2. Both the 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.166 dated 04.07.2022, under Sections 328 and 379 of the IPC (Sections 201 and 34 of the IPC added later on), registered at Police Station GRP Ambala Cantt., District GRP Ambala Cantt., Haryana.

3. Both the learned counsels for the petitioner submitted that both the petitioners are in custody from 20.07.2022, which is more than 1 year and 4 months. They further submitted that the investigation in the present case has been completed by the police and thereafter, challan has also been presented before the competent Court and two prosecution witnesses have been examined. They also submitted that as per the allegations, the complainant was travelling in a train and some unknown persons had put some intoxicant substance in his cold drink, which caused him unconsciousness and they looted an amount of Rs.50,000/- and a mobile phone from the complainant. They further submitted that thereafter, the petitioners were arrested merely on the basis of suspicion. They further submitted that it is a case where the petitioners were earlier involved in three more cases of similar nature and it was due to this reason that they have been falsely implicated in the present case. They further submitted that even no medical of the complainant was conducted in the present case since it was a false story concocted by the police.

4. Both the learned counsel for the petitioners further submitted that charges in the present case were framed by the learned trial Court on 11.10.2022 and thereafter, the complainant was summoned not once but for number of times and even bailable warrants have been issued against him

repeatedly but the complainant chose not to appear and depose before the Court. They also submitted that again fresh bailable warrants have been issued against the complainant but he is not caring to depose before the Court with a result that the petitioners had to face incarceration for more than 1 year and 4 months due to the fault of the complainant. They further submitted that in view of the aforesaid facts and circumstances of the present case, both the petitioners may be considered for the grant of regular bail.

5. On the other hand, Mr. Vijesh Sharma, Addl. A.G., Haryana submitted that it is correct that both the petitioners are in custody from 20.07.2022, which is more than 1 year and 4 months and two prosecution witnesses have been examined but the complainant is not deposing before the Court despite repeated summons and bailable warrants being issued against him. He further submitted that since the petitioners are involved in three more cases of similar nature, they are not entitled for the grant of regular bail.

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

7. Both the petitioners are in custody from 20.07.2022, which is more than 1 year and 4 months. Although the petitioners are stated to be involved in three more cases of similar nature but the facts of the present case would suggest that after the framing of the charges, repeatedly summons and bailable warrants have been issued against the complainant, who alleged that he was robbed of Rs.50,000/- and a mobile phone but he has not caused appearance for deposition as prosecution witness before the learned trial Court. The mere pendency of three more cases of similar nature against the petitioners therefore, cannot become a ground for denial of regular bail to the petitioners.

8. Therefore, considering the aforesaid totality and circumstances of the present case, this Court deems it fit and proper to grant regular bail to both the petitioners.
9. Consequently, both the petitions are allowed. The petitioners shall be released on regular bail, if not required in any other case, subject to furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.
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.

12.12.2023
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

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