

CRM-M-201-2024 (O&M)
CRM-M-55264-2023

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

Date of decision: 14.02.2024

(1) CRM-M-201-2024 (O&M)

Gulshan Kumar @ NannuPetitioner.

Versus

State of PunjabRespondent.

(2) CRM-M-55264-2023

Bunty SharmaPetitioner

versus

State of PunjabRespondent.

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. Gurbir Singh Sidhu, Advocate,
for the petitioner in CRM-M-201-2024.

Mr. Parunjeet Singh, Advocate,
for the petitioner in CRM-M-55264-2023.

Mr. Ankit Grewal, DAG, Punjab.

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SANJIV BERRY, J. (ORAL)

CRM-3189-2024

1. Keeping in view the averments made in the application,
copy of report under Section 173(2) Cr.PC dated 01.10.2023 is taken
on record.

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2. Disposed of.

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1. Two separate custody certificates dated 13.02.2024 (in both petitions) filed by learned State counsel are taken on record.
2. Instant petitions have been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioners in case FIR (Annexure P-1). Details of the FIR are as under: -

FIR No.	Dated	Sections	Police Station
106	26.08.2023	379-B, 411, 201, 34 IPC	Tappa Mandi, District Barnala.

3. It is, *inter alia*, contended by learned counsel for the petitioners that the petitioners are innocent and have been falsely implicated in this case. He contends that the petitioners are in custody since 29.08.2023 and the challan has already been presented in the Court of learned Additional Chief Judicial Magistrate, Barnala, on 25.10.2023 and the same has not yet been committed to the Court of Sessions for trial. The prosecution has cited 10 witnesses in the list attached with the challan, hence, they pray for grant of bail.
4. *Per contra*, learned State counsel, submits that both petitioners are not entitled for concession of bail as they have committed heinous crime, however, they admit filing of challan in the Court of learned Additional Chief Judicial Magistrate, Barnala.

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5. After considering the respective submissions and perusing the record, it transpires that the petitioners, who are nominated in the present case are in custody since 29.08.2023 and possible recovery has been effected from them and after completion of investigation, challan has been presented in the Court of learned Additional Chief Judicial Magistrate, Barnala way back on 25.10.2023. During the course of hearing, learned counsel for both the petitioners, have placed on record, copy of zimni orders passed by the concerned Court to show that the case is repeatedly being adjourned for notice to the concerned SHO, P.S. Tappa Mandi, District Barnala, to appear in the Court and produce the certificate but it is pity state of affairs apparently prevalent in the police of District Barnala to show that the concerned SHO is not having any regard for the order passed by the Court and on this pretext, the committal of the case to the Court of Sessions is being delayed unnecessarily.

6. As stated above, the petitioners are in custody since 29.08.2023, challan presented by the police has not yet reached the stage of committal to the Court of Sessions on account of lackluster attitude of concerned SHO even other wise 10 witnesses as cited by the prosecution. The conclusion of trial, in such circumstances, will take sufficient long time to conclude, no purpose would be served in keeping the petitioner in custody any longer to face the incarceration till the conclusion of trial. Accordingly, without commenting on the

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merits of the case, both petitions (supra) are allowed and the petitioners are ordered to be released on bail on their furnishing surety bonds/bail bonds to the satisfaction of Trial Court/Duty Magistrate.

7. The petitioners shall give the undertaking that they will not leave the country without prior permission of the Court; will regularly appear before the trial Court on each and every date; in case of some exigency, they will seek prior permission of the concerned Court qua their exemption to appear on the date fixed and they will not tamper with evidence of prosecution in any manner.

8. Considering the above discussed conduct of the concerned SHO, the Senior Superintendent of Police, Barnala, is hereby directed to take appropriate legal action against the erring official.

9. 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.

10. Both petitions i.e. **CRM-M-201-2024** and **CRM-M-55264-2023** stand allowed.

11. Copy of this order be placed on the connected file.

(SANJIV BERRY)
JUDGE

14.02.2024

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i) Whether speaking/reasoned? Yes/No

ii) Whether reportable? Yes/No