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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-7601-2024
Date of Decision: 01.10.2024

Hardev Singh Cheema Petitioner
Versus
State of Punjab Respondent

CRM-M-30134-2024

Rohit Kumar Petitioner
Versus
State of Punjab Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. A.P. Kaushal, Advocate,
for the petitioner in CRM-M-7601-2024.

Ms. Deepa Negi, Advocate for
Mr. S.S. Swaich, Advocate,
for the petitioner in CRM-M-30134-2024.

Mr. Rajiv Verma, DAG, Punjab.

Mr. Pankaj Bains, Advocate for
Mr. Stephen Masih, Advocate,
for the complainant in CRM-M-7601-2024.

JASGURPREET SINGH PURI, J. (ORAL)

1. Both the 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 all the learned counsels for the parties, since they arise out of the same FIR bearing No.69 dated 11.04.2022, under Sections 307, 379-B, 34 IPC and Sections 25, 27, 54 & 59 of the Arms Act, registered at Police Station Phase-1,



Mohali.

2. The present FIR was lodged on the basis of a complaint made by the complainant that when she along with her husband and children was returning back from Chandigarh to their house in the car, then they stopped at Barbeque Nation in Phase-5, Mohali for having meal and when they came back to collect cash and jewellery lying in their I-20 car (colour white) and when her husband tried to open the door of the car then two persons standing near the car attacked her husband and fired bullets upon him which hit his stomach and left leg. Thereafter, both the accused ran away from the spot in the car of the complainant along with the cash and jewellery.

3. Learned counsel appearing on behalf of the petitioner, namely, Rohit Kumar in CRM-M-30134-2023 submitted that the petitioner is in custody for 2 years 5 months and 14 days and learned counsel appearing on behalf of the petitioner-Hardev Singh Cheema in CRM-M-7601-2024 submitted that he is in custody for 2 years 5 months and 9 days. Both the learned counsels submitted that the story put forward by the prosecution is highly improbable and further submitted that even an affidavit which has been filed by the respondent-State also shows that the story put forward by the prosecution was not only improbable but also a concocted story. They submitted that none of the petitioners have been named in the FIR and it was only on the basis of suspicion that they have been apprehended and also on the basis of subsequent statement given by the complainant. They further submitted that it is highly improbable that anybody would keep cash and jewellery in the car and go to a restaurant for having meals and even otherwise also as per the status report it has been so stated therein that when



the husband of the complainant was admitted in the hospital, then one of the petitioners, namely, Hardev Singh Cheema was also admitted in the same hospital in the same emergency ward with an injury on the leg which was caused by a bullet shot and as per the affidavit, he had self-sustained injury. They also submitted that such kind of story on the face of it seems to be a concocted story and even otherwise also, both the petitioners have already faced incarceration for more than 2 years and 5 months.

4. Both the learned counsels for the petitioners further submitted that the charges in the present case were framed by the learned trial Court on 06.04.2023 and more than 1 year and 5 months have elapsed but till date not even a single prosecution witness has been examined. They also submitted that the trial Court has been summoning the complainant and other prosecution witnesses but even after lapse of such a long time, they have not deposed before the Court deliberately because they have concocted the aforesaid story and the petitioners have been falsely implicated. Learned counsels submitted that in view of the aforesaid facts and circumstances and considering the long custody of the petitioners, they may be considered for grant of regular bail.

5. On the other hand, Mr. Rajiv Verma, learned Deputy Advocate General, Punjab submitted that so far as the custody of both the petitioners is concerned, the same is correct and it is also correct that at the time when the scuffle took place, the petitioner-Hardev Singh was also injured and that is why he was admitted in the same hospital. He further submitted that so far as the petitioner-Rohit Kumar is concerned, he is not involved in any other case and has clean antecedents and so far as the petitioner-Hardev Singh



Cheema is concerned, he is involved in one more case under Section 307 IPC. While referring to the affidavit filed by the respondent/State, he submitted that the stolen articles i.e. car, jewellery and cash have been recovered from the petitioners. He submitted that since none of the prosecution witnesses have been examined till date, the petitioners do not deserve the concession of regular bail.

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

7. It is a case where the custody of the petitioner, namely, Hardev Singh Cheema is 2 years 5 months and 9 days and the custody of the petitioner, namely, Rohit Kumar is 2 years 5 months and 14 days. The charges in the present case were framed on 06.04.2023 which is almost 1 year and 5 months ago but till date none of the prosecution witnesses have been examined. It is a case of both the learned counsels for the petitioners that both the petitioners have been falsely implicated and that is the reason as to why none of the prosecution witnesses including the complainant are coming forward for the purpose of deposing before the Court. One of the petitioners, namely, Rohit Kumar is stated to be having clean antecedents and one of the petitioners, namely, Hardev Singh Cheema is stated to be involved in one more case under Section 307 IPC.

8. During the course of arguments, a specific query was raised to the learned State counsel as to what is the reason as to why more than 1 year and 5 months have elapsed after the framing of the charges and not even a single prosecution witness has been examined to which he could not offer any explanation or justification even after seeking instructions from the officer, who is present in the Court.



9. After hearing the learned counsels for the parties, this Court is of the view that considering the long custody of both the petitioners and also considering the stage of the trial whereby despite 1 year and 5 months have elapsed after framing of the charges, not even a single prosecution witness has been examined, they deserve the concession of regular bail. Consequently, both the petitions are allowed and the petitioners, namely, Hardev Singh Cheema and Rohit Kumar are ordered to be released on regular bail on furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned, if not required in any other case.

10. 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.

01.10.2024
Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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