



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

109+110+218

CRM-M-27019-2024(O&M)
Decided on : 29.07.2024

KAKA SHAH AND ANR

. . . Petitioner(s)

Versus

STATE OF PUNJAB

. . . Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Abdul Aziz, Advocate,
for the petitioner(s).

Mr. J.S. Dhaliwal, AAG Punjab.

Mr. Mohd. Salim, Advocate for complainant.

KIRTI SINGH, J. (Oral)

CRM-25354-2024

This is an application under Section 482 Cr.P.C. for permission to withdraw the petition qua petitioner No.2-Ishan.

2. Learned counsel for the petitioners submits that petitioner No.2 was granted regular bail by the trial Court, therefore, he may be permitted to withdraw instant petition qua petitioner No.2-Ishan.

3. Allowed as prayed for.

CRM-29988-2024

This is an application under Section 482 Cr.P.C. for placing on record translated copy of compromise dated 11.06.2024 as Annexure P-4 and exemption from filing the certified/true translated copy of same.

2. Heard. For the reasons mentioned in the application, the same is allowed and Annexure P-4 is taken on record subject to all just exceptions.

CRM-M-27019-2024

The jurisdiction of this Court under under Section 439 Cr.P.C.



has been invoked for grant of regular bail to the petitioner No.1-Kaka Shah in case FIR No. 10 dated 14.01.2024, under Sections 323, 341, 427, 506, 148 and 149 of the Indian Penal Code, 1860, (Sections 307 and 120-B of the Indian Penal Code added later on) registered at Police Station City-II Malerkotla, District Malerkotla.

2. Learned counsel for the petitioners have submitted that the parties have compromised the matter. It has further been contended that the only injury attributed to the petitioner No.1 is that he gave a fist and kick blows to the complainant for which there is no cogent proof and the accused-Butewala who gave a blow with a base ball bat on the head of the complainant, had been granted anticipatory bail by Additional Sessions Judge, Sangrur. The petitioner No.1 is in custody since 12.02.2024 and there is no likelihood of the trial concluding anytime soon, inasmuch as out of total 23 prosecution witnesses, none has been examined till date. He also submits that co-accused(s) have been granted regular bail by the Co-ordinate Bench vide order dated 06.05.2024 in CRM-M-13509-2024.

3. *Per contra*, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner No.1. He has filed custody certificate dated 26.07.2024 in Court today and the same is taken on record. As per custody certificate, the petitioner No.1 has undergone actual custody of 05 months and 14 days and there is no other criminal case pending against him. He on instructions from the concerned investigation officer submits that charges were framed on 01.07.2024 and out of a total of 23 prosecution witnesses, none has been examined till date. He further submits that in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail.



4. Heard.

5. The veracity of the allegations leveled against the petitioner No.1 shall be established during the course of the trial. Admittedly, charges have been framed and out of 23 witnesses, none has been examined till date. A compromise has also been effected between the parties and similarly situated co-accused(s) have also been granted concession of regular bail vide order dated 06.05.2024 in CRM-M-13509-2024. The petitioner has undergone actual custody of 05 months and 14 days and he is not involved in any other criminal case. The trial of the case will take a considerable time and no useful purpose will be served by detaining the accused in custody.

6. Without commenting anything on the merits of the case, lest it may prejudice the trial, the present petition is allowed and the petitioner No.1 is ordered to be released on regular bail on his furnishing adequate bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate. The petitioner shall also abide by the following conditions:-

- (I) The petitioner will not tamper with the evidence during the trial.
- (II) The petitioner will not pressurize/intimidate the prosecution witness(s).
- (III) The petitioner will appear before the trial Court on the date fixed, unless personal presence is exempted.
- (IV) The petitioner shall not commit an offence similar to the offence of which he is accused of, or for commission of which he is suspected.
- (V) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

7. In case of breach of any of the above conditions, the prosecution shall be at liberty to move an application for cancellation of bail before this Court.



8. However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

(KIRTI SINGH)
JUDGE

July,29 2024
Kavita Nain

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*