

CRM-M-46652-2024 and other connected cases

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1.	CRM-M-46652-2024 Reserved on: 06.11.2024 Pronounced on: 19.11.2024
Sahil @ Gaba	...Petitioner
Versus	
State of Haryana	...Respondent
2.	CRM-M-47477-2024
Amit @ Khurchan	...Petitioner
Versus	
State of Haryana	...Respondent
3.	CRM-M-47773-2024
Rustam @ Chota	...Petitioner
Versus	
State of Haryana	...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Sahil Choudhary, Advocate,
for the petitioner in CRM-M-46652-2024.

Mr. Naresh Kumar Chhokar, Advocate,
for the petitioner in CRM-M-47477 & 47773-2024.

Mr. Viney Phogat, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
843	02.10.2022	Samalkha, Panipat	148, 149, 302, 506, 34, 120-B IPC and Sections 25, 54, 59 of Arms Act

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1. The petitioners incarcerated in the FIR captioned above had come up before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS]/ Section 439 CrPC, 1973, seeking regular bail.
2. In paragraph 30 of the bail petition i.e. CRM-M-46652-2024, the accused Sahil @ Gaba declares that he is involved in two other cases and the details of other cases are not available at this time. However, as per para 4 of status report/custody certificate, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Dated	Offenses	Police Station
1.	561	2021	147, 149, 323, 506 IPC	Samalkha, Distt. Panipat
2.	309	23.04.2022	148, 149, 323, 506 IPC	Samalkha, Distt. Panipat

3. In paragraph 14 of the bail petition i.e. CRM-M-47477-2024, the accused Amit @ Khurchan declares that he has no criminal antecedents.
4. In paragraph 14 of the bail petition i.e. CRM-M-47773-2024, the accused Rustam @ Chota declares that he has no criminal antecedents. However, as per para 4 of status report/custody certificate, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Dated/ Year	Offenses	Police Station
1.	502	2021	--	Narela, North Delhi
2.	375	04.04.2022	482 IPC, 33 of Excise Act	North East, Delhi
3.	472	27.12.2021	25, 54, 59 of Arms Act	Ganaur, Sonipat

5. For brevity, the facts and allegations are being taken from the status report filed by the State in CRM-M-46652-2024 Sahil v. State of Haryana as all the petitions relates to one FIR, which reads as follows:

"2.(i) That on 02.10.2022, ruqa was received from Government Hospital, Samalkha that Manoj S/o Ajit has been brought dead in the Hospital. On receiving ruqa, police party reached at Government Hospital, Samalkha where Bijender S/o Deep Chand (uncle of deceased) presented a written complaint. The contents of the complaint are as follows:-

"To, S.H.O, P.S. Samalkha. Respected Sir, 1, Bijender S/o Deep Chand and I am resident of Kuhar Pana, Samalkha. I am an agriculturist. On 01.10.2022 in the afternoon my nephew, Manoj S/o Ajit R/o Kuhar Pana told me that on 30.09.2022, during 'Ramlila', Himanshu S/o Rakesh, Sahil and Rustam etc. abused me and that on 01.10.2022 me and my nephew Sagar s/o Karambir, both of us after watching 'Ramlila' were going to our house

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through Bhadbhuja Gali. After going a long distance in the Gali at about 10:30 P.M, some persons were beating my nephew Manoj S/o Ajit. When I and Sagar raised our voices, Himanshu @ Ishu s/o Rakesh stabbed Manoj on his sides and waist with a knife which was in his hand, then Sahil s/o Randhir stabbed Manoj with a knife on his waist, then Romi struck Manoj on his hands with knife and then Rustam @Chota struck Manoj with a Ice Pick (Sua) and even others beat Manoj. That Sagar and I tried to catch them but everyone flew with their weapons who threatened that whoever comes in between will be murdered. Sagar and I took Manoj on motorcycle and admitted him in the Govt. Hospital Samalkha where Doctor declared Manoj as brought dead. Himanshu@ Ishu, Sahil s/o Randhir, Romi grandson of Randhir, Rustam @ Chota (s/o maternal uncle of Ishu) and some other residents of Balmiki Basti, Samalkha have murdered Manoj and that strict action should be taken, against them."

On the basis of said complaint and nature of crime, a formal FIR No. 843 dated 02.10.2022 under sections 302, 148, 149 and 506 of IPC (Section 120-B of IPC and Section 25 of Arms Act were added later on), was registered at P.S Samalkha, District Panipat."

6. The petitioners' counsel prayed for bail on the grounds that the complainant and the main witness did not support the prosecution.
7. The petitioners’ counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioners and their families.
8. The State’s counsel opposes bail and refers to the status report.
9. It would be appropriate to refer to the following portions of the status report, filed in CRM-M-46652-2024, which read as follows:

“(v) That the following accused were found involved in crime and were arrested by the investigating officer during the investigation: -

Sr. No.	Name accused	Date of Arrest	Name come in this case	Role in the crime	Recovery
1.	Himanshu Ishu S/o Rakesh	05/10/2022	Named in the FIR.	He inflicted injuries to deceased by using knife.	Knife

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2.	<i>Rustam Chota S/o Badshah.</i>	<i>05/10/2022</i>	<i>Named in the FIR.</i>	<i>He gave beatings to the deceased in conspiracy with other accused with slaps and fists.</i>	<i>NIL</i>
3.	<i>Romi Gunga S/o Sundar Ram</i>	<i>05.10.2022</i>	<i>He is named in the FIR.</i>	<i>He gave beatings to the deceased in conspiracy with other accused.</i>	<i>NIL</i>
4.	<i>Krish Panipatiya S/o Dharambir Singh.</i>	<i>05.10.2024</i>	<i>He was named in the Statement dated 04.10.2022 of the complainant.</i>	<i>He stabbed knife in the chest of the deceased due to which deceased died on the spot.</i>	<i>Knife</i>
5.	<i>Aditya S/o Dharambir Singh.</i>	<i>07.10.2022</i>	<i>His name was disclosed in the disclosure statement of co-accused Himanshu @ Ishu.</i>	<i>He gave beatings to the deceased in conspiracy with other accused.</i>	<i>NIL</i>
6.	<i>Amit Khurchan S/o Parveen</i>	<i>07.10.2022</i>	<i>His name was disclosed in the disclosure statement of co-accused Himanshu @ Isu.</i>	<i>He attacked deceased with slaps and fists.</i>	<i>NIL</i>
7.	<i>Sahil S/o Randhir</i>	<i>08.10.2022</i>	<i>He is named in FIR, statement of complainant dated 04.10.2022.</i>	<i>He gave knife blows in the waist of the deceased.</i>	<i>Knife</i>
8.	<i>Sahil @ Gaba S/o Rajesh (Petitioner)</i>	<i>08.10.2022</i>	<i>Named in FIR, Statement of Complainant dated 04.10.2023.</i>	<i>He inflicted injuries on the hand of deceased by using gandasi.</i>	<i>Gandasi</i>
9.	<i>Vijay S/o Jaswant</i>	<i>08.10.2022</i>	<i>Statement of Complainant dated 04.10.2022.</i>	<i>He was found present on the crime spot and was armed with sword on the date of incident. He gave lalkara on the date of incident.</i>	<i>Sword</i>

During the course of interrogation, above said accused have voluntarily suffered their separate disclosure statements admitting therein the

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manner in which they remain involved in crime. As per the nature of crime, Sections 120-B of I.P.C. and Section 25 of Arms Act were added in the case. True copy of disclosure statement of accused Sahil @ Gaba (Petitioner) is annexed herewith as Annexure R-2.

(vi) That on 12.10.2022, doctor's opinion was obtained with regard to the weapon i.e., knife, gandasi used in occurrence by accused persons. The doctor opined that "The possibility of injuries mentioned in the above said PMR by this weapon cannot be ruled out."

(vii) That on 15.11.2022, the case property was deposited in FSL, Madhuban vide RC No. 186. It is pertinent to mention here that FSL Report has been received in this case and it was opined that no common poison is found in the exhibits and blood was detected on gandasi and sword. True Copy of FSL Report is annexed herewith as Annexure R-3 Colly.

(viii) That thereafter, CDR, tower locations with regard to mobile numbers 98133-xxxxx, 99914-xxxxx, 99912-xxxxx, 85580-xxxxx, 89309-xxxxx, 74044-xxxxx, 90502-xxxxx, 98176-xxxxx, 87081-xxxxx belonging to the accused persons were taken into police possession and they were found to be together at the place of occurrence.

10. Although the PW-1 and PW-2 were declared hostile and did not support the prosecution's case, the trial Court, while rejecting the bail, was aware of this aspect and had also considered it on the following reasoning:

"6. The applicants/accused have been booked with the allegations of having committing the murder of deceased Manoj, along with the co-accused in prosecution of their common object. It has been alleged against the applicants/accused that they being armed with weapons inflicted fatal injuries on the body of the deceased. The applicant/accused Himanshu got recovered one knife, accused Sahil got recovered one knife, Sahil @ Gaba got recovered one gandasi and Vijay got recovered one sword from their respective possession. The bail applications of juveniles namely Romi @ Gunga and Krish @Panipatiya were dismissed by this court. Even though the complainant has turned hostile, however, remaining material witnesses including the police: officials and doctors are remaining to be examined. Moreover the allegations against the applicants/accused are serious in nature."

11. The trial is going on, and scientific evidence, along with official and other

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witnesses, has yet to be examined.

12. A perusal of the bail petition and the documents attached prima facie points towards the petitioners' involvement and does not make out a case for bail. The impact of crime would not justify bail. Any further discussions will likely prejudice the petitioners; this court refrains from doing so.

13. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

14. **Petitions are dismissed.** All pending applications, if any, are disposed of.

(ANOOP CHITKARA)
JUDGE

19.11.2024
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.