

CRM-M-17972-2014
CRM-M-41699-2014 and
CRM-M-12121-2015

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: September 17, 2015

1. **CRM-M-17972-2014**

Naveen

...Petitioner

Versus

State of Haryana

...Respondent

2. **CRM-M-41699-2014**

Pawan Kumar

...Petitioner

Versus

State of Haryana

...Respondent

3. **CRM-M-12121-2015**

Anil @ Kala

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. S.K. Garg Narwana, Senior Advocate, with
Mr. Deepak Hooda, Advocate, (in CRM-M-17972-2014)

Mr. Rajesh Bansal, Advocate, (in CRM-M-41699-2014)

Mr. Samrat Malik, Advocate, (in CRM-M-12121-2015)

for the petitioner(s)

Mr. Pawan Gaur, DAG, Haryana
for the respondent-State
(in all the three captioned petitions)

Mr. Rajesh Lamba, Advocate,
for the informant
(in all the three captioned petitions)

1. *Whether Reporters of local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

NARESH KUMAR SANGHI, J (Oral)

The present common order shall dispose of the above captioned three regular bail petitions filed under Section 439, Cr.P.C., by Naveen, son of Krishan, resident of New Sanjay Colony, Gohana Road, Panipat (CRM-M-17972-2014); Pawan Kumar, son of Hawa Singh, resident of Israna, District Panipat (CRM-M-41699-2014); and Anil @ Kala, son of Fateh Singh, resident of village Israna, District Panipat (CRM-M-12121-2015),

who have been booked for having committed the offences punishable under Sections 120-B, 148 and 302 read with Section 149, IPC, in a case arising out of FIR No. 148, dated 28.6.2013, registered at Police Station, Israna, District Panipat.

Learned counsel for the petitioners submit that the informant in the present case is Sandeep, who is brother of Pardeep (since deceased). As per First Information Report (FIR), three days prior to 27.6.2013, Jasmer, co-accused of the petitioner(s), was constructing a drain in the *panchayat* land and when the said drain had reached up to the land belonging to the informant side, then Pardeep (since deceased) objected to the construction of the drain in his land.

On 27.6.2013, in the evening, i.e. after three days of the previous incident, Pardeep (since deceased) was encircled by approximately twenty persons and caused injuries. The informant, Sandeep, received the information on mobile phone and reached at the spot near Arya Samaj Mandir and witnessed the occurrence. One Vikram had also arrived at the spot after the incident. With the help of Vikram, Sandeep carried Pardeep to Prem Kumar Hospital at Panipat. Due to injuries received,

Pardeep had ultimately died. On the next day, i.e. 28.6.2013, the matter was reported to the police in which the petitioner(s) were not named as assailants.

Learned counsel representing the petitioner(s) further submitted that except the disclosure statement of Manish, co-accused of the petitioner(s) and disclosure statement of the petitioner-Naveen, there is no evidence to connect the petitioner(s) with the murder of Pardeep. They further pointed out that in pursuance of the disclosure statement suffered by the petitioner, Naveen, a stick was allegedly recovered, but no blood stains were detected by the Serologist of the Forensic Science Laboratory, Madhuban. They further submit that the disclosure statements suffered by Manish and Naveen are in the shape of self-confession and the same cannot be read against the petitioner(s) after filing of the charge-sheet (report under Section 173, Cr.P.C.). They further pointed out that all, except two prosecution witnesses, have already been examined, therefore, releasing of the petitioner(s) on bail would not in any manner be prejudicial to the interest of the prosecution.

Learned senior counsel representing the petitioner-

Naveen, has further pointed out that the assailants named in the FIR, alleged by Sandeep, were declared innocent by the police though they were later summoned under Section 319, Cr.P.C.. The said named assailants were granted anticipatory bail by the Courts.

Learned counsel for the State has not controverted the factual aspect that the petitioner(s) were not named by Sandeep while lodging the FIR. Except the disclosure statements suffered by Manish [co-accused of the petitioner(s)] and the petitioner, Naveen, there is no evidence to connect the petitioner(s) with the murder of Pardeep.

Learned counsel representing the informant vehemently opposed grant of bail on the grounds that only two witnesses are remained to be examined by the prosecution; the main accused, Jasmer, who was granted interim-bail on medical grounds, had since absconded and declared as a proclaimed offender; during pendency of the trial, Jasmer had extended threats to the witnesses not to depose against the accused; and that during investigation, the call details of the mobile phones used by the accused persons were collected by the investigating

agency, which clearly showed presence of the petitioner(s) at the spot. Learned counsel for the informant has further expressed his apprehension that if the petitioner(s) are granted bail, then they might abscond like their co-accused, Jasmer.

Learned counsel for the State as well as counsel for the informant further pointed out that during his deposition before the Court, Sandeep has specifically named the petitioner(s) as assailants.

I have heard learned counsel for the parties and with their able assistance gone through the material available on record.

Perusal of the statement of Sandeep (attached with the bail petition of Pawan Kumar) would reveal that during cross-examination Sandeep, the star-witness of the prosecution was duly confronted with his first statement suffered before the police, on the basis of which the FIR was recorded, with regard to presence of the petitioner(s) at the spot. To connect the petitioner(s) on the basis of the disclosure statements of the accused, would be a moot point during trial. The petitioners are behind the bars for the last two years and approximately two

months. Most of the prosecution witnesses have been examined, therefore, release of the petitioner(s) on bail would not be detrimental to the interest of the prosecution.

The apprehension expressed by learned counsel for the informant that the petitioner(s) might run away from the trial, cannot be the ground for denying bail to the petitioner(s), if otherwise they are entitled to.

As a sequel to the above discussion, all the three petitions captioned above are allowed. The petitioner(s), namely, Naveen, son of Krishan, resident of New Sanjay Colony, Gohana Road, Panipat; Pawan Kumar, son of Hawa Singh, resident of Israna, District Panipat; and Anil @ Kala, son of Fateh Singh, resident of village Israna, District Panipat, are directed to be released on bail during pendency of the trial of the present case subject to furnishing bonds in the sum of ₹1,00,000/- (Rupees one lac only) with two sureties of the like amount by each petitioner, to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate, Panipat.

If the petitioner(s) in any manner threaten the prosecution witnesses or do not cooperate in disposal of the trial

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of the present case, the prosecution or the informant shall have liberty to move this Court for withdrawal of the concession of bail granted to the petitioner(s).

A copy of this order be placed on the files of connected petitions.

(NARESH KUMAR SANGHI)
JUDGE

September 17, 2015
P Kapoor