

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRM No. M-35471 of 2015 (O&M)

Date of Decision: 15.03.2016

Arvind Deep

...Petitioner

Versus

State of U.T., Chandigarh

... Respondent

CRM No.M-42519 of 2015 (O&M)

Govind Singh

...Petitioner

Versus

State of U.T., Chandigarh

...Respondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. Siddhant Pandit, Advocate,
for the petitioner in CRM No. M-35471 of 2015.

Ms. Dhivya Jerath, Advocate,
for the petitioner in CRM No.M-42519 of 2015.

Mr. Parveen Chauhan, Advocate for
Mr. Gagandeep S. Wasu, Additional P.P., U.T.,
Chandigarh.

TEJINDER SINGH DHINDSA. J (ORAL)

CRM No.40604 of 2015 in CRM No.M-35471 of 2015

Application is allowed, as prayed for.

Document at Annexure P-4 is taken on record.

Main Cases

This order shall dispose of CRM No.M-35471 of 2015
(Arvind Deep Vs. State of U.T., Chandigarh) and CRM No.M-42519
of 2015 (Govind Singh Vs. State of U.T., Chandigarh) as both these
petitions have been filed under Section 439 Cr.P.C. seeking benefit of
regular bail pending trial to the petitioners therein in case FIR No.138
dated 18.04.2015, under Sections 302, 34 of IPC, registered at

Police Station, Sector-39 Chandigarh.

Counsel for the parties have been heard.

FIR came to be registered on the statement of Sunny S/o Lokander pertaining to an occurrence that took place on 18.04.2015 in which brother of the complainant Mukesh lost his life.

As per initial statement recorded of the complainant on the date of occurrence itself i.e. 18.04.2015, specific attribution was made to Akash of having caught hold of the arms of Mukesh and Vivek having given three/four knife blows on the chest and other parts of the body of Mukesh.

It so transpires that after about five weeks from the date of occurrence, the complainant got a supplementary statement recorded i.e. on 25.05.2015 in which the names of the petitioners in these two connected petitions surfaced for the first time.

Even as per supplementary statement, Arvind Deep i.e. petitioner in CRM No.M-35471 of 2015 was alleged to have caught hold of deceased Mukesh and insofar as Govind Singh i.e. petitioner in CRM No.M-42519 of 2015 he is stated to be involved in conspiracy hatched, he was sitting in a vehicle No.CH-01-AL-9884 and in which main accused Vivek had fled away post the occurrence.

It may be pertinent to make a mention that even in the supplementary statement, there is no allegation against either of the petitioners of having inflicted injuries upon the person of Mukesh (deceased).

Even though learned State counsel who is upon instructions from ASI Tejpal Singh would oppose the present petition

by stating that there was a CCTV footage and in which the present petitioners' presence has been recorded. On a specific query having been put, it has been conceded that such CCTV coverage is prior to the actual occurrence and does not record the actual occurrence wherein Mukesh was inflicted injuries.

On the last date of hearing of these two connected petitions i.e. 20.01.2016, hearing had been deferred to await the deposition of complainant Sunny i.e. real brother of deceased Mukesh and who was stated to be an eye witness to the occurrence.

Counsel appearing for the petitioners have produced in Court today the zimini orders starting from 19.11.2015 and till 10.03.2016 and which would demonstrate that on five different dates complainant had been summoned but he has chosen not to appear.

Petitioners have been in custody since 25.06.2015.

Court has been apprised that out of 23 prosecution witnesses, only 05 have been examined till date.

In view of the facts and circumstances noticed hereinabove, without making any observations on merit and coupled with length of incarceration already suffered by the petitioners, they are held entitled to the benefit of bail.

Petitions are allowed. Petitioners be enlarged on bail subject to satisfaction of the Chief Judicial Magistrate/Duty Magistrate, Chandigarh.

Disposed of.

15.03.2016

vandana

(TEJINDER SINGH DHINDSA)
JUDGE