

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

CRM-M-28383 of 2016

Date of Decision: 24th August, 2017

Virender @ Binder

...Petitioner

Versus

State of Haryana

...Respondent

CRM-M-40831 of 2016

Nadeem Saifi

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. R.S. Rai, Senior Advocate with
Mr. Jagmohan S. Ghumman, Advocate
and Mr. Deepinder Brar, Advocate for the petitioners.

Mr. Munish Sharma, AAG, Haryana.

FATEH DEEP SINGH, J.

These two regular bail applications both under Section 439 Cr.P.C. one by petitioner Virender @ Binder and another by petitioner Nadeem Saifi having arisen from the same very FIR are being taken up together.

The brief allegations brought to the notice of this Court are that on 10th November, 2015 at the petrol pump situated in Palam Vihar, Gurgaon alleged to be owned by complainant Ashok Kataria around 10.35

p.m. when Scorpio vehicle bearing registration No.26-LN-0074 came from which deceased Raju @ Raj Kumar along with Vikas alighted and at that very juncture four young men on a motorcycle came and fired at the deceased, who tried to run but fell to the hail of bullets leading to his death and registration of the present case and during the course of investigation from the possession of the accused alleged weapons of offence by means of pistol, a motorcycle and a car were got recovered.

The contentions of the learned counsel for the petitioners are that the petitioners are in custody since 04.12.2015 and that none of the prosecution witnesses have supported the allegations against the petitioners and it is purely on the basis of disclosure statement of the main accused Virender @ Binder Gujjar the petitioners have been roped in falsely and that the petitioners were neither identified nor there is any legitimate evidence to connect them with the commission of crime.

The bail application is stoutly opposed by the State counsel on the grounds that the petitioner Virender @ Binder till date had faced/is facing 26 cases of heinous offences of murder, dacoity and robbery etc. and that it is purely due to an intimidation the witnesses had not supported the case of the prosecution and if allowed bail to the petitioners they will influence the remaining PW's as the trial is still undergoing.

Appreciating the submissions and giving a thoughtful consideration to the evidence that is underway before the trial Court, it is in itself abundantly clear how the accused side by mere intimidation, threats and criminality are instrumental in cowing down the witnesses to which apparently even the learned trial Judge has totally remained in oblivion to

his duties towards fair trial and his apparent non-participation in the same. The petitioner Virender @ Binder is attributed an active role and the petitioner Nadeem Saifi is alleged to be the supplier of weapons used in the commission of offence. Keeping in view that the National Capital region along with Gurgaon has become hot bed of criminality which needs to be curbed with a heavy hand and which fact stands well elicited in the orders of the Court below while declining relief to the petitioners as there is every likelihood that it will affect the administration of justice. Together with the fact that evidence of the prosecution that it was on the basis of disclosure statement of the accused including the petitioner recoveries have been effected. Being desperados and the Courts being tools of social justice as well and in view of the criminal history of the petitioners and apprehension of the State certainly being not unfounded no ground to grant bail to the petitioners is made out.

Both the petitions stand dismissed.

Records of the trial Court be sent back.

(FATEH DEEP SINGH)
JUDGE

August 24th, 2017
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No