

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

**CRM-M No.11496 of 2018  
Date of Decision : 28.03.2018**

Tony and another

.....Petitioners

Versus

State of Punjab

.....Respondent

**CORAM :HON'BLE MR. JUSTICE SUDIP AHLUWALIA**

Present : Mr. R.S. Cheema, Senior Advocate assisted by  
Mr. Rajiv K. Trikha, Advocate  
for the petitioners.

Ms. Rajni Gupta, Sr. Deputy Advocate General, Punjab  
for the respondent-State.

Mr. Vivek Salathia, Advocate  
for the complainant.

**SUDIP AHLUWALIA, J. (ORAL)**

The instant petition has been filed under Section 439 of the Code of Criminal Procedure seeking regular bail on behalf of the petitioners in case FIR No.105 dated 11<sup>th</sup> October, 2017, registered under Sections 307/506/148/149 of the Indian Penal Code and Section 25/27/54/59 of the Arms Act at Police Station Kathu Nangal, District Amritsar.

2. According to FIR as well as statements of the victim namely Kartik and other witnesses examined under Section 161

Cr.P.C., gun shots were attributed to the principal accused namely Rajinder @ Pappu as well as his other accomplices including the present petitioners.

3. By a detailed order passed in CRM-M No.3946 of 2018 on 12<sup>th</sup> February, 2018, this Court had directed release of the principal accused Rajinder Kumar @ Pappu with certain observations the full text of which need not be repeated here considering the sensitivity of the matter involved.

4. The basic grievance of the complainant who strongly opposes the bail application is that on account of the very powerful profile of the principal accused the Investigating Agencies themselves have conducted the investigation in a biased manner in order to allow him, and by extended logic, his accomplices to go scot-free. To substantiate this contention, the complainant's side has drawn attention to the fact that a separate CRM-M No.49461 of 2017 has been filed in which a direction for transfer of investigation to some Independent Agency has already been sought for, on the premise that not only the present Investigating Officer, but even his superior who happens to be the Senior Superintendent of Police of the concerned Area of the District, are hand in gloves with the accused side.

5. Be that as it may, from the stand point of this Court, fate of the bail application would depend on the quality of material available for consideration. Even by the complainant's own submission such material is unconvincing since according to him the Investigating Agencies themselves have done their best to ensure some kind of protection to the culprits involved in the present occurrence.

6. This Court is however not inclined to accept such submission on its absolute face value because as the detailed order passed in CRM-M No.3946 of 2018 on 12<sup>th</sup> February, 2018 would go to show, the Investigating Agencies had tried their best to oppose the bail prayer of the principal accused by making unnecessary references to his personal profile and past history, and even to the extent of putting in black and white that they themselves had not taken appropriate actions against him “for extraneous consideration”.

7. In the opinion of this Court, however, such unnecessary references of those facts unconnected with the merits of the case was rather in the nature of an unfair attempt to preclude release of the said accused on the basis of an objective study of the available material on merits.

8. In the present case also undeniably the material so far

gathered against the petitioners would not justify their further detention for an indefinite period. The Court is however mindful of the genuine apprehension of the complainant side that the Investigating Agencies/Machinery could have been influenced or otherwise compromised.

9. In the given circumstances, considering the long detention undergone by the present petitioners one of whom was arrested on 11<sup>th</sup> October, 2017 and the other on 14<sup>th</sup> December, 2017, at this stage they may be released on bail to the satisfaction of the Ld. Chief Judicial Magistrate/Duty Magistrate Amritsar.

10. It is further made clear that in the event of any favourable order being passed by the Court in the complainant's CRM-M No.49461 of 2017 regarding investigation by any other Agency, the complainant would be at liberty to immediately approach the Court for cancellation of bail.

11. Disposed off.

**March 28, 2018**

**Dpr**

**(SUDIP AHLUWALIA)  
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No