

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

1. CRM-M-12307-2018

Navraj

...Petitioner

Versus

State of Haryana

...Respondent

2. CRM-M-20971-2018

Anand

...Petitioner

Versus

State of Haryana

...Respondent

Date of decision: 06.08.2018

CORAM:- HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Aman Pal, Advocate &
Mr. D.P.S. Bajwa, Advocate
for the petitioner in both cases.

Ms. Harpreet Kaur, AAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

This common order shall dispose of above noted two petitions
as they arise out of the same FIR.

These petitions have been filed under Section 439 of the Code
of Criminal Procedure for grant of regular bail to petitioners Navraj and
Anand in case FIR No. 106 dated 03.05.2016, registered under Sections
302, 223, 148, 149 and 120-B of the IPC at Police Station Uchana, District
Jind.

Learned counsel for the petitioners submitted that as per the allegations in the FIR, the complainant has a share in the land out of which the father of the petitioners Ishwar and one Om Parkash had purchased a plot, vide sale deed dated 22.12.2015 and the dispute arose thereafter with regard to possession of the said land. It is further submitted that a perusal of the FIR would show that the incident was spontaneous and not a pre-meditated one. Learned counsel for the petitioners has further submitted that the petitioners are in judicial custody since 03.05.2016 and out of 27 prosecution witnesses, 12 witnesses including the complainant as well as the eye-witnesses have already been examined and there is no possibility that the petitioners will influence any prosecution witness.

Learned counsel for the petitioners has further submitted that out of total 12 accused persons, 06 co-accused have already been granted bail by the trial Court and two accused, namely Om Parkash and Rohtash, were granted concession of regular bail by this Court, vide order dated 15.12.2017, passed in CRM-M No. 20405 and 38911 of 2017, which reads as under:

“This order shall dispose of CRM-M-20405-2017, filed by petitioner-Om Parkash and CRM-M-38911-2017, filed by petitioner Rohtash, under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.106 dated 03.05.2016, registered at Police Station Uchana, District Jind, under Sections 302, 323, 148, 149 and 120-B of the Indian Penal Code.

Notice of motion was issued in these petitions. Learned State counsel appeared on behalf of respondent-State and complainant also appeared through his counsel. They contested these petitions.

I have heard learned counsel for the parties as well as learned State counsel and gone through the record.

From the record, I find that private witnesses have already been examined in this case. Both the petitioners namely Om Parkash and Rohtash are stated to be armed with lathis. They had not given any injury to the deceased. Only simple injuries on the injured are attributed to the petitioners.

Petitioner-Om Parkash and petitioner-Rohtash have been in custody since 06.05.2016 and 17.07.2016, respectively. They are not required for any investigation or interrogation purposes as they are in judicial custody. 20 prosecution witnesses are still to be examined. The trial of the case will take long time. No useful purpose will be served by keeping the petitioners in custody till the final disposal of the case.

Keeping in view the facts and circumstances of the present case; without discussing the facts in minute details; without expressing any opinion on the merits of the case and in view of the fact that no injury was given to the deceased by the petitioners and simple injuries on the injured are attributed to the petitioners, both these criminal miscellaneous petitions are allowed and the petitioners are ordered to be released on bail subject to their furnishing personal bonds in the sum of Rs. 50,000/- with one surety in the like amount each to the satisfaction of the trial Court/Duty Magistrate.”

Learned counsel for the petitioners has further submitted that the petitioners have set up a defence with regard to their possession over the land as well as they have also put up the photographs/CCTV footage to prosecution witnesses in cross-examination and, therefore, it can be seen only at the time of final disposal of the case, which party acted as an aggressor.

Learned State counsel, on instructions from ASI Dharam Pal, has not disputed the factual position and submitted that 12 prosecution witnesses have been examined and the case is fixed for recording of the

remaining evidence.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the arguments raised by the parties and also considering the fact that the petitioners are in judicial custody for more than two years and the case is still fixed for recording the prosecution evidence and also in view of the fact that co-accused of the petitioners, including Om Parkash and Rohtash, have already been granted regular bail vide order dated 15.12.217 passed in CRM-M No. 20405 and 38911 of 2017; the instant petitions are allowed. The petitioners Navraj and Anand are ordered to be released on regular bail on their furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaq Magistrate, concerned.

August 06, 2018

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No