

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Decided on: 22.02.2019

1. CRM-M No.37713 of 2018 (O&M)

Rajat @ Gulee
State of Haryana
Versus
....Petitioner
....Respondent

2. CRM-M No.40575 of 2018

Vishal Kumar Sharma
State of Haryana
Versus
....Petitioner
....Respondent

3. CRM-M No.48570 of 2018

Pankaj Kumar
State of Haryana
Versus
....Petitioner
....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. A.P.S. Deol, Sr. Advocate
with Mr. Tejinder Pal Singh, Advocate
for the petitioner (in CRM-M No.37713 of 2018)

Mr. Naresh Kaushik, Advocate
for the petitioner (in CRM-M No.40575 of 2018)

Mr. Aman Kashyap, Advocate
for the petitioner (in CRM-M No.48570 of 2018)

Ms. Harpreet Kaur, AAG, Haryana (in all the petitions)

ARVIND SINGH SANGWAN, J. (Oral)

CRM No.3660 of 2019

Heard.

Allowed as prayed for.

Statement of PW1 – Isha Goel i.e. the complainant is taken on record as Annexure P5 subject to all just exceptions.

CRM-M Nos.37713, 40575 and 48570 of 2018

Prayer in these petitions is for grant of regular bail to the petitioners namely Rajat @ Gulee, Vishal Kumar Sharma and Pankaj Kumar under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.191 dated 06.05.2018, for offence punishable under Sections 302, 120-B of the Indian Penal Code (in short 'IPC'), 27-25-59 of the Arms Act, registered at Police Station Ambala Cantt., Ambala, District Ambala.

Learned Senior counsel for the petitioner – Rajat @ Gulee, has argued that as per the allegations in the FIR, the complainant – Isha Goel stated that her husband – Sandeep Goel was doing the work of LPG gas fitting and she has a son and a daughter. It is further stated that her neighbour Vijay Sharma is residing in front of the house of the complainant and in his family, Rajat and Chetan sons of Virender Gandhi and Jitender and Virender Gandhi are also living in the adjoining house of Vijay Sharma. It is further stated that on an earlier occasion, the minor daughter of the complainant, aged 14 years was teased by Vijay Sharma and his sons namely Pankaj, Vishal, Rajat and Chetan and against them, an FIR was registered in Women Police Station. The complainant has further stated that on 06.05.2018 at about 09:30 a.m. Vijay Sharma along with the co-accused started abusing them and when they stopped, Pankaj brought a pistol from his house

and handed over the same to Vijay Sharma and he fired shot at Sandeep Goel, who was standing in street, which hit him on the right thigh, neck and right shoulder, due to which he fell down. Thereafter, the complainant with the help of her neighbours Sanjay Goel, Virender Goel, Baljit Singh Jauhar and Sumeet Goel brought her husband to the civil hospital, where he was declared brought dead.

Learned Senior counsel for the petitioner has further submitted that the petitioners were arrested on 06.05.2018/17.05.2018 and as per the prosecution version, the incident was also recorded in a CCTV footage, in which only the role of the co-accused Vijay Sharma, is visible who had fired on Sandeep Goel.

Learned Senior counsel for the petitioner has relied upon the statement of the complainant – Isha Goel, who had appeared as PW1 on 24.01.2019 before the trial Court, wherein she was declared hostile by the Public Prosecutor as she has not supported the prosecution version.

In the cross-examination, she was confronted with her two supplementary statements, however, she stated that her signatures were obtained by the police on blank papers. It is further submitted that the complainant – Isha Goel is the only eye-witness and the entire evidence is qua the main accused Vijay Sharma.

Learned Senior counsel for the petitioner has also submitted that though in the FIR, it is stated that the entire incident was witnessed by two PWs namely Sumeet Goel and Baljit Singh Jauhar, however, neither the PW1 – Isha Goel has stated so nor in the statement

of these two witnesses recorded under Section 161 Cr.P.C. on 06.05.2018, it has come that they have witnessed the incident rather it is stated that they came to know that Vijay Sharma fired a shot on Sandeep Goel and he is lying in the street in the injured condition and thereafter, they along with Isha Goel took him to Hospital.

Similar arguments have been raised by counsel appearing for the petitioners – Vishal Kumar Sharma and Pankaj Kumar.

Counsel for the State, on instructions from ASI Rakesh Kumar and on the basis of the statement recorded under Section 161 Cr.P.C., of the aforesaid witnesses i.e. Sumeet Goel and Baljit Singh Jauhar, has not disputed that they are not the eye-witness and they are the witness, who have helped the complainant to shift the injured – Sandeep Goel from the place of incident to the Civil Hospital, Ambala Cantt.

After hearing the counsel for the parties, without commenting anything on merits of the case, considering the fact that the complainant – Isha Goel has not supported the prosecution version and also in view of the fact that there are no direct allegations against the present petitioners namely Rajat @ Gulee, Vishal Kumar Sharma and Pankaj Kumar of causing any injury to deceased – Sandeep Goel who are in custody since 06.05.2018/17.05.2018, these petitions are allowed and the petitioners namely Rajat @ Gulee, Vishal Kumar Sharma and Pankaj Kumar, are directed to be released on bail subject to their furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

However, this will be subject to the condition that the petitioners namely Rajat @ Gulee, Vishal Kumar Sharma and Pankaj Kumar, will not influence the prosecution witnesses in any manner and they will not visit the place of residence or work of the complainant.

Liberty is granted to the prosecution to apply for cancellation of bail of the aforesaid petitioners, in case the complainant express any threat to her life and liberty at the instance of the petitioners.

(ARVIND SINGH SANGWAN)
JUDGE

22.02.2019
yakub

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No