

**IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH  
202**

**(1)**

**CRM-M-15388-2020**

Vikas Malhotra

....Petitioner

Versus

State of Punjab

...Respondent

**(2)**

**CRM-M-20960-2020**

Sahib @ Sujal Mattu

....Petitioner

Versus

State of Punjab

...Respondent

**(3)**

**CRWP-4051-2020 (O&M)**

Avinash Malik

....Petitioner

Versus

State of Punjab & others

...Respondents

**Decided on: 11.09.2020**

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA**

Present: Mr.Vaibhav Narang, Advocate,  
for the petitioner in CRM-M-15388-2020.

Mr.D.S.Gandhi, Advocate,  
for the petitioner in CRM-M-20960-2020.

Mr.G.S.Madaan, Advocate,  
for the petitioner in CRWP-4051-2020.

Mr.H.S.Sullar, DAG, Punjab.

(The proceedings are being conducted through video  
conferencing, as per instructions.)

**G.S. SANDHAWALIA, J. (Oral):-**

The present judgment shall dispose of 3 cases, namely, CRM-M-15388 & 20960-2020 and CRWP-4051-2020. In CRM-M-15388 & 20960-2020, petitioners, Vikas Malhotra and Sahib @ Sujal Mattu seek regular bail in petitions filed under Section 439 Cr.P.C. in FIR No.69 dated 21.03.2020, registered under Sections 307, 506, 148, 149 IPC, Section 25 of

the Arms Act, 1959, at Police Station Gate Hakima, District Police Commissionerate, Amritsar.

In CRWP-4051-2020, in a petition filed under Article 226 of the Constitution of India read with Section 482 Cr.P.C., by Avinash Malik, the complainant seeks directions for protection of life and liberty of the petitioner which is stated to be under threat at the hands of respondents No.5 to 9, who are some of the accused in the said FIR.

Counsel for the petitioners have submitted that Vikas Malhotra is in custody since 15.04.2020 and thus, has undergone over 4 months and 23 days of detention whereas Sahib @ Sujal Mattu is in custody since 25.03.2020 and detention is of over 5 months.

State Counsel submits that investigation is partly complete since challan has been presented against the said petitioners on 23.06.2020.

It is, accordingly, submitted by counsels for the petitioners that petitioners have not played any active role in the incident and therefore, are entitled for the benefit of bail. Mr.Gandhi has further submitted that the petitioner has not been named in the FIR and it was only at the subsequent stage, he was named by the complainant-Avinash Malik.

A perusal of the FIR would go on to show that Gora allegedly had a fight with one of the relatives of the complainant. Subsequently, he had called his brother-in-law, Danish who had talked to the complainant. Ritik Malhotra had then called the complainant that he had spoken wrongly with Danish and they would kill him. Petitioner,

Vikas Malhotra is stated to be the uncle of Ritik Malhotra who along with Sunil Malhotra and one Masad Billa are stated to have come to the house to talk about the fight at 3.30 PM. At that point of time, Danish, Ritik Malhotra, Sachin, Kartik Ghora and Gora along with 2-3 persons whom the complainant stated that he could identify had come to the house along with 10-12 unidentified persons and started firing gunshots with pistol with the intention to kill the complainant who had gone inside the house. However, Manju Devi, his mother and other persons in the family, namely, Nishan Singh, Gautam Mattu, Vishal Singh and Bholu are stated to have got injured due to the fire-arm injuries. In such circumstances, the regular bail applications were dismissed, as the investigation was pending.

Counsel for the petitioner, Mr.Narang has submitted that admittedly the petitioner, Vikas Malhotra was inside the house, as per the statement of the complainant and he is not involved in the firing which had taken place though it is stated that the revolver which was used is in the name of the petitioner.

Mr.Gandhi, on the other hand, submits that petitioner, Sahib @ Sujal Mattu was only named subsequently and once large number of persons have been specifically named, there is no reason why the petitioner was not named at the initial stage. It is further submitted that Ritik Malhotra has been granted the concession of bail by the Court of Principal Judge, Juvenile Justice Board on 12.06.2020 and similar is the position of Gora. Reliance has also been placed upon the compromise entered into between the parties which is also signed by the complainant,

Avinash Malik. Mr.G.S.Madaan, Advocate, appearing for him, vouches for the same.

On 11.08.2020, a direction was issued by this Court that an affidavit be filed by respondent No.2 giving the justification as to why only 4 persons have been arrested till now out of the 9 accused. This was on account of the fact that there were allegations of opening fire in a crowded locality which led to the gunshot injuries of 4 persons. The requisite affidavit has now been filed by Dr.Sukhchain Singh Gill, IPS, Commissioner of Police, Amritsar, wherein it has been mentioned that a .32 bore revolver along with 3 live cartridges of .32 bore and a Swift car were recovered from Vikas Malhotra on 15.04.2020 and the co-accused, Ritik Malhotra was arrested on 16.04.2020. The co-accused, Billa son of Sai Dass had been arrested on 19.08.2020. Similarly, mention has been made that Gaurav @ Gora was juvenile and an investigation report had been filed which was prepared and submitted before the Juvenile Justice Board.

It is submitted that investigation has been completed against Vikas Malhotra, Sahib @ Sujal Mattu and Ritik Malhotra as challan has been presented on 23.06.2020 and the case is fixed for commitment of the case in the Court of Session for trial. On 17.08.2020, the co-accused, Kartik Ghora was arrested and was stated to be in police remand and was arrested in the present case after producing the arrest warrant.

The three co-accused Danish son of Dharminder Sandhu, Sachin Gill son of Dharam Pal and Sunil Malhotra son of Vijay Kumar are stated to be absconding and could not be arrested despite more than

19 raids having been conducted. The explanation given is that the investigation had severely been hampered due to the scourge of COVID-2019 pandemic which afflicted the police personnel on a large scale especially amongst the police officials posted in the Police Station including the SHO who suffered from the COVID-2019 infections from 10.06.2020 to 07.08.2020. Other officials had to be quarantined and therefore, there was delay in the arrest.

In response to the protection claimed by the complainant, it was mentioned that he had been provided the mobile number of the SHO and additional SHO and also in-charge of Police Post Gurbax Nagar. He had been assured that he can make contact with these officials at any time if he feels any kind of insecurity. The patrolling parties of Police Station Gate Hakima and police personnel deployed on motorcycles of PCR in the area of residence of the petitioner had been directed to keep a constant watch at the residence of the petitioner.

It is, in such circumstances, apparent that the investigation is complete against the petitioners. Their role is limited to the extent that prima facie Vikas Malhotra was not part of the persons who can be attributed the fire-arm injuries though the weapon might be his, but has been misused by others who are in close relation with him. As noticed above, 2 of them are stated to be juvenile. Sahib @ Sujal Mattu, as noticed, has been named subsequently.

Accordingly, keeping in view the said facts and the fact that the petitioners have undergone reasonable amount of detention and the trial is likely to take considerable time, the petitions filed by Vikas

Malhotra and Sahib @ Sujal Mattu i.e. CRM-M-15388 & 20960-2020 are allowed. The petitioners shall be released on regular bail, to the satisfaction of the Ilqa/Duty Magistrate, Amritsar.

CRWP-4051-2020 is, accordingly, disposed of, in view of the reply filed by the Commissioner of Police, as noticed above and also in view of the fact that parties have entered into some compromise, as such, without commenting upon the validity or veracity of the same. However, directions are given to the Commissioner of Police, Amritsar City to ensure that the 3 persons who have not been apprehended, till now, be apprehended by taking active steps. Further steps, in accordance with law to declare them proclaimed persons, in case their apprehension is not done, be undertaken. Status report regarding the same be furnished to the Court, after a period of 3 months.

With the above-said directions, the present petitions are disposed of.

11.09.2020  
Sailesh

(G.S. SANDHAWALIA)  
JUDGE

*Whether speaking/reasoned:* Yes

*Whether Reportable:* Yes