

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

205

Date of decision: 06.10.2020

1.

CRM-M-15434-2020

Himanshu @ Babu**....Petitioner****versus****State of Haryana****....Respondent**

2.

CRM-M-15617-2020

Ajay Kumar**....Petitioner****versus****State of Haryana****....Respondent**

3.

CRM-M-3186-2020

Mogali @ Jitender**....Petitioner****versus****State of Haryana****....Respondent****CORAM: Hon'ble Mr. Justice Girish Agnihotri**

Present: Mr. Bijender Singh Dhankar, Advocate, for the petitioner
in CRM-M-15434-2020.

Mr. Jagjit Singh Gill, Advocate for the petitioner
in CRM-M-15617-2020.

Mr. Devender Arya, Advocate for the petitioner
in CRM-M-3186-2020.

Mr. Rajiv Goel, DAG, Haryana.

(the aforesaid presence is being recorded through video

conferencing since the proceedings are being conducted in Virtual Court).

GIRISH AGNIHOTRI, J. (Oral)

This order shall dispose of CRM-M No.15434 of 2020, CRM-M
No.15617 of 2020 and CRM-M No.3186 of 2020 as common issues are

involved. For the sake of convenience, CRM-M No.15434 of 2020 is being treated as the lead case.

Petitioners-Himanshu @ Babu in CRM-M No.15434 of 2020, Ajay Kumar in CRM-M No.15617 of 2020 and Mogali @ Jitender in CRM-M No.3186 of 2020, have filed the present petitions under Section 439 Cr. P.C. *inter alia* praying for grant of regular bail in case FIR No.386 dated 16.11.2019, under Sections 147, 149, 323, 341, 427, 307, 302, 506 of IPC (Section 307 was added on 17.11.2019 after Doctor's opinion and Section 302 IPC was added later on when injured passed away on 09.02.2020), registered at Police Station Civil Lines, District Sirsa.

Learned counsel for the petitioners based on pleadings, submit that in the FIR dated 16.11.2019, petitioner-Himanshu was arrested on 13.12.2019, petitioner-Mogli @ Jitender was arrested on 11.12.2019 and petitioner-Ajay Kumar was arrested on 03.12.2019. Learned counsel then submit that the petitioners were in custody for nearly one year. It is submitted that the petitioners-Himanshu @ Babu and Ajay Kumar, were not named in the FIR. They later named in the supplementary statement made by the complainant after about two weeks. It is also submitted that on merits, the petitioners have good prima facie case. Firstly, it is submitted that the perusal of the FIR would show that qua the two petitioners who were not named in the FIR, there is no direct attribution of any injury. As regards the allegations against the petitioner-Mogli @ Jitender, it is alleged that he had gave a base ball blow to Sunil which landed on his head. Secondly, the counsel submit that the deceased has unfortunately died

nearly three months after the occurrence.

Learned State counsel, on instructions from SHO Jatinder Kumar, submits that the challan has been presented on 01.02.2020. There are total of 18 witnesses but none has been examined till date. Learned counsel submit that the petitioners do not deserve the concession of bail as there are allegations that the petitioners had caused injuries to two persons namely, the complainant-Naveen Kumar as well as the Sunil.

Faced with the situation, learned counsel for the petitioners submit that they have instructions from the petitioners to submit that without prejudice their defence in the trial, petitioners are ready to deposit Rs.2 lacs each towards medical expenses with the Trial Court/Duty Magistrate concerned, which may be disbursed to the injured, to show their bona fides. Learned counsel, however, submit that due to the present COVID-19 situation and also the fact that trial is likely to take some time, detention of the petitioners in jail would be dangerous to their lives, therefore, petitioners may be granted concession of regular bail.

In view of the peculiar facts as noticed above, considering the existing situation due to COVID and the fact that trial is likely to take time, this Court deems it appropriate to release the petitioners on regular bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate concerned, subject to their furnishing bail bonds/surety bonds. However, it is made clear that anything observed herein shall not be construed as an expression on merits of the case.

In addition to the bail/surety bonds, accepting the offer made by counsel for the petitioners, the petitioners would deposit

Rs.2 lacs each with the Trial Court/Duty Magistrate concerned. The amount so deposited by the petitioners be handed over to the injured towards medical expenses. The same shall be without prejudice to defence of the petitioners before the trial Court.

The petitions stand disposed of accordingly.

(GIRISH AGNIHOTRI)
JUDGE

06.10.2020.

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Whether speaking/ reasoned:	Yes/No
Whether Reportable:	Yes/No