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

1. CRM-M No.17454 of 2019
Date of Decision: 19.02.2020

RAJBIR @ MONUPetitioner
Vs
STATE OF HARYANARespondent

2. CRM-M No.4964 of 2020

MAHABIRPetitioner
Vs
STATE OF HARYANARespondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. R.S. Dhull, Advocate
for the petitioner in CRM-M No.17454 of 2019.

Mr. Ramesh Hooda, Advocate
for the petitioner in CRM-M No.4964 of 2020.

Mr. Surender Singh, A.A.G., Haryana.

RAJ MOHAN SINGH, J.(Oral)

Vide this common order, CRM-M No.17454 of 2019 and CRM-M No.4964 of 2020 are being decided. Since both the petitions have arisen out of same FIR, therefore, common facts are being noticed.

Petitioners seek grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.226 dated 25.08.2018, registered under Sections 302 & 34 IPC (Section 120-B IPC added later

on) at Police Station Julana District Jind.

The FIR was registered at the instance of complainant Balwan. The complainant has alleged murder of his nephew Ankit, who had made telephonic call on 24.08.2018 at about 10.18 p.m. on the mobile phone of Krishan in respect of beatings which were given to him by four persons. On being asked by Krishan, Ankit could not tell the names of the accused persons and his mobile was disconnected. A suspicion arose in the mind of the complainant that his nephew Ankit must have been murdered by Surjeet, Mahabir and two unknown persons. Ankit was learning driving of JCB machine with the driver of the village namely Surjeet. JCB machine was owned by Mahabir.

Learned counsel for the petitioners submitted that on 24.08.2018 at about 10.18 p.m., Ankit went for learning of driving of JCB machine. Krishan received a telephonic call from him in the context of giving beatings by four persons.

According to learned counsel for the petitioners, the complicity of the petitioners has not been defined in the FIR with reference to any particular event. In the first disclosure statements of co-accused Surjeet and Jagbir dated 27.08.2018, names of the the petitioners were disclosed. On the same day, second disclosure statements of Surjeet and Jagbir were recorded wherein role of the petitioner Rajbir @ Monu came to

fore. There was no reference of Mahabir in the disclosure statements. Petitioner Rajbir @ Monu is real brother of Jagbir. Mahabir was arrested after a period of about one year of the occurrence. Mahabir has been implicated solely on the basis of Section 120-B IPC as he is owner of JCB machine. Co-accused Surjeet and Jagbir are in custody. Role of co-accused Makka in the present occurrence would also remain debatable. Petitioner Rajbir @ Monu is in custody for the last more than 1 year 5 months 20 days. Mahabir is in custody for the last more than 5 months 2 days.

Learned State counsel on instructions from Inspector Surender submitted that challan has been presented. Out of 24 prosecution witnesses, only 3 witnesses have been examined so far. Trial of the case may take some time in its culmination.

The complicity of the petitioners would remain debatable in view of their involvement on the basis of disclosure statements only. Recovery of motorcycle from Rajbir @ Monu belonging to himself would not give rise to any such presumption against the accused, who is a true owner of the motorcycle.

At this stage, without adverting to the merits of the case, I am of the view that petitioners, can be enlarged on bail.

In view of above, both the petitions are allowed.

Petitioners are ordered to be released on bail, subject to their furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

February 19, 2020	(RAJ MOHAN SINGH)
Atik	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No