

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

Date of decision-06.10.2020

1. CRM-M-20199-2020

Deepak @ Guru

....Petitioner

Vs.

State of Haryana

...Respondent

2. CRM-M-50015-2019 (O&M)

Rahul Rathore

....Petitioner

Vs.

State of Haryana

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. S.S.Mor, Advocate for the petitioner
in CRM-M-20199-2020.

Mr. Shivansh Malik, Advocate for the petitioner
in CRM-M-50015-2019.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

Mr. Anshuman Dalal, Advocate for the complainant.

MANOJ BAJAJ, J.

Petitioners have preferred the above mentioned petitions separately under Section 439 Cr.P.C for grant of regular bail pending trial in case FIR No.122 dated 03.05.2018 under Sections 148, 149 and 302 Indian Penal Code, 1860 (Section 506 IPC added later on) and Section 25 of Arms Act, 1959 registered at Police Station Civil Lines, District Rohtak. The petitioners are in custody since their arrest on 04.05.2018.

The FIR was registered on the statement of complainant, Ankit son of Krishan, wherein it was alleged that on 02.05.2018 at about 10 PM, he with his cousin Virender S/o Rajbir and alongwith other friends, namely, Vikas S/o Ram Chander, Chandvir S/o Jai Parkash and Amit S/o Jagbir, had their dinner at Navbharat Dhaba near Sheela bypass Chowk Rohtak.

Thereafter, they proceeded to the main road on the corner of Balajiwali Gali. Meanwhile, an i-20 white car stopped near them, and Vicky boxer, his brother Vijay Boxer, Aman Bhaiswal, Rahul Rathore and Deepak Guru alighted from it, who were armed with weapons. Vicky fired a shot which hit on chest of Virender and he fell down on the spot. Thereafter, the assailants fled away from the spot towards Delhi Pass with their respective weapons. As Virender was bleeding, therefore, he was shifted to PGIMS Rohtak on motorcycle by complainant and Amit, where he was declared brought dead. Few days back, an altercation had taken place between complainant and the accused person and for this reason, brother of the complainant was murdered.

Learned counsel for the petitioners contend that as per the FIR, the fatal shot was fired by accused Vicky Boxer which resulted into death of the victim, namely, Virender. According to them, though the petitioners have been named in the FIR as the companions of the main accused, but no role has been attributed to them. It is pointed out that the brother of Vicky Boxer, namely, Vijay has already been released on bail by the Court of Sessions vide order dated 09.01.2019 (Annexure P-2), and the case of the petitioners is at par with him. It is further contended that the complainant, namely, Ankit Kadyan was examined as PW-1, but he has not supported the prosecution case. The other eye witness, namely, Chandvir already stands given up by the prosecution. Learned counsel have further submitted that the charges were framed on 20.12.2018, but only two witnesses have been examined so far out of total 26 witnesses, and therefore, further custody of the petitioners may not be necessary. It is prayed that during the pendency of the trial, they be released on regular bail.

State counsel assisted by ASI Rajesh Kumar as well as by learned counsel appearing on behalf of the complainant. It is pointed out that the petitioners are involved in other cases and there is every likelihood that they may threaten the remaining eye witnesses. It is submitted by learned counsel for the complainant that a separate FIR No.508 dated 19.10.2018 under Section 195 IPC was registered on the statement of Ankit Kadyan for threatening the complainant. It is prayed that the petition be dismissed.

At this stage, learned counsel for the petitioners have contended that since the accused were in custody, there was no occasion for them to threaten the complainant, who already stands examined on 12.02.2020. It is further pointed out that the petitioners have been acquitted in the other cases and therefore, they deserve the concession of regular bail.

After hearing the learned counsel for the parties, this Court finds that the investigation of the case is complete and the trial is progressing at slow pace. This Court is cognizant of the fact that the outbreak of pandemic COVID-19 in the region may further delay the conclusion of trial. Admittedly, the petitioners are presently confined in judicial custody since 04.05.2018 and their further detention may not be necessary for any useful purpose, therefore, the Court does not find any reason to decline the prayer.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioners be released on regular bail subject to their furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petition is allowed.

06.10.2020

vanita

(MANOJ BAJAJ)
JUDGE

VANITA
2020.10.06 17:47
I attest to the accuracy and
integrity of this document

Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No