

CRM-M-44355-2018 &
CRM-M-5901-2020

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

(1) CRM-M-44355-2018

Braham Parkash

...Petitioner

Versus

State of Haryana

...Respondent

(2) CRM-M-5901-2020

Pawan

...Petitioner

Versus

State of Haryana

...Respondent

Date of decision:18.2.2020

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.R.S. Rai, Senior Advocate with
Mr.Karan Pathak, Advocate
for the petitioner in CRM-M-44355-2018.

Mr.H.P.S. Ishsar, Advocate
for the petitioner in CRM-M-5901-2020.

Ms.Dimple Jain, AAG, Haryana.

H.S. MADAAN, J.

By this order, I shall dispose of two petitions i.e. CRM-M-

44355-2018 filed by petitioner/accused – Braham Parkash and CRM-M-5901-2020 filed by petitioner/accused – Pawan for grant of regular bail in case FIR No.1082 dated 18.10.2016, under Sections 148, 149, 302, 307, 120-B, 216 IPC and 25 of Arms Act, registered at Police Station City, Gurugram, District Gurugram.

Briefly stated, facts of the case as per prosecution version are that a FIR in this case was recorded on the basis of statement of complainant Karan Singh son of late Sh.Lakhi Chand, resident of House No.310/25, Shakti Nagar, near Pataudi Chowk, Gurugram, who *inter alia* stated that he had got four children i.e. three sons and one daughter; his elder son Manish Kumar @ Pappu was engaged in the business of dairy farming and sale of liquor; he had a liquor vend near New Colony turning, old Railway Road, opposite Prem Mandir; on 17.10.2016 at about 9:00/10:00 p.m. while the complainant was sitting at such liquor vend, then at about 11:45 p.m. son of the complainant Manish Kumar @ Pappu along with his driver Sukhvir and Liyaqat came to the liquor vend in his Hyundai Creta car to collect cash; the car was being driven by Sukhvir and Manish @ Pappu was sitting on the front seat whereas Liyakat was sitting on the rear seat; the moment the car stopped in front of the liquor vend and Kamlesh Salesman took cash near the car, in the meanwhile 8-10 young persons having weapons came there and started indiscriminate firing on Manish @ Pappu and other two occupants of the car; Manish @ Pappu suffered gun shot injuries on his head, chest and abdomen; Sukhvir and Liyaqat also suffered injuries; thereafter the assailants ran away from the spot in two cars, one of which was of make Swift, white in colour,

whereas the details of the other car could not be given by the complainant; the complainant informed Ravi Kumar, a bother-in-law of Manish @ Pappu regarding the incident, who immediately reached the spot and took injured to Medhanta Hospital, however, the doctors there declared Manish @ Pappu brought dead, whereas Sukhvir and Liyaqat were admitted in the hospital for treatment; the motive for the incident was that there has been enmity between family of the complainant and family of Sandeep Gadauli and Kaushal of Naharpur, Gurugram; when Sandeep Gadauli was cremated at that time, his brother Kuldeep, Braham Parkash(present petitioner) and sister Sudesh had announced that they would not allow family of complainant to celebrate Diwali festival.

The complainant in his statement to the police further stated that he was sure that Kuldeep, Braham Parkash and Sudesh, residents of village Gadauli besides Kaushal and his brother Manish and Amit Dagar were involved in murder of Manish @ Pappu son of the complainant. He stated that he could identify the persons, who had fired shots at his son.

Accused were arrested in this case. They had filed petitions for grant of regular bail in the Court of Sessions but were unsuccessful there, as such, they have approached this Court with the same request.

Notice of the petitions was given to respondent – State and counsel representing the State has put in appearance.

I have heard learned counsel for the parties besides going through the record.

Firstly taking up CRM-M-44355-2018 filed on behalf of petitioner Braham Parkash.

It is contended on behalf of this petitioner Braham Parkash that his real brother Sandeep was killed by Gurugram police in a fake encounter at Mumbai on 7.2.2016 at the behest of Binder Gujjar son of the complainant; that the petitioner is a practicing Advocate at District Court, Gurugram; he has been pursuing the case of fake encounter at Mumbai and to pressurize the petitioner and his family members to compromise the matter, the petitioner has been involved in this false case when as a matter of fact, he was in Mumbai on the fateful day; that he is in custody since 18.1.2017; though the challan has been filed but it shall take a long time for conclusion of trial since the prosecution has cited 63 PWs; that the co-accused of the petitioner, namely Sudesh and Kuldeep have been granted concession of regular bail by the High Court, therefore, such concession be also granted to the petitioner.

Whereas learned State counsel has vehemently opposed the prayer for grant of regular bail to the petitioner stating that he is a hardened criminal and is involved in several other criminal cases, details of which are as under:

1. FIR No.295 dated 22.4.2015, under Sections 120-B, 148, 149, 307, 364, 395, 399, 452 IPC and 25 of Arms Act, Police Station Sector 10-A, Gurugram.
2. FIR No.1108 dated 18.12.2006, under Sections 148, 149, 353, 302, 212, 307 IPC and 25 of Arms Act, Police Station Sadar Gurgaon.
3. FIR No.655/2003, under Sections 307, 452 IPC, Police Station Sadar, Gurugram.
4. FIR No.32/2018, under Section 42 of Prisons Act, Police Station

Bhondsi, Gurugram.

5. FIR No.284 dated 19.5.1990, under Sections 148, 149, 302, 323, 325 IPC, Police Station Sadar Gurugram.
6. Court Complaint No.64/2014, Gurugram.
7. Court Complaint No.497/2019, Gurugram.
8. Court Complaint No.5814/2016 under Section 138 of NI Act, Gurugram.
9. Court complaint No.1964/2016, under Section 138 of NI Act.
10. Court complaint No.2206/2016, under Section 138 of NI Act.
11. FIR No.284/1990 dated 19.5.1990, under Sections 148, 149, 302, 323, 325 IPC, Police Station Sadar, Gurugram.
12. FIR No.91/2008 under Sections 148, 149, 332, 353, 186, 436 IPC and 3 PDPP Act, Police Station Bhondsi, Gurugram.
13. FIR No.875/2006 dated 17.10.2006, under Sections 148, 149, 302, 201, 120-B, 34 IPC and 25 of Arms Act, Police Station Sadar, Gurugram.
14. FIR No.653/2000, under Sections 148, 149, 334, 353, 506, 427 IPC, Police Station Sadar, Gurugram.
15. FIR No.156/2015 under Sections 279, 336, 181 IPC, 192 MV Act, Police Station City, Gurugram.
16. FIR No.245/2011, under Section 506 IPC, Police Station City, Gurugram.

Learned State counsel further submits that petitioner Braham Parkash had played an active role in the conspiracy to commit murder of Manish @ Pappu by hiring killers.

Accused Kuldeep during the course of investigation had stated that he along with his brother Braham Parkash (present petitioner) and sister Sudesh along with other co-accused had hatched a conspiracy to take revenge for murder of their brother Sandeep Gadauli and a sum of Rs.15 lakhs was paid to co-accused Ravi and a Swift car, pistols and 20 cartridges were provided to him and in pursuance of that conspiracy Manish @ Pappu was killed and two other persons were injured. Accused Ravi while being interrogated had disclosed that Kuldeep had paid a sum of Rs.10 lakhs, Sudesh Rs.4 lakhs and Braham Parkash Rs.3 lakhs to him, Rishi and Sonu to commit the crime. In that way, the petitioner is taking active part in heinous crime and he has got a long criminal record. With regard to bail granted to the co-accused, Sudesh was granted bail for the reason that she was suffering from kidney stone as per medical record and that she had been implicated on the basis of disclosure statement of co-accused while main accused were in custody. Whereas, bail was granted to co-accused Kuldeep considering the role assigned to him and other facts and circumstances relating to him.

After hearing the rival contentions of learned counsel for the parties, I find that keeping in view the facts and circumstances of the case, the lengthy criminal record of the petitioner as detailed above and the apprehension expressed by the State counsel that if petitioner Braham Parkash is granted bail, there is every likelihood to his absconding and even tampering with the prosecution evidence by giving threats/inducement to the prosecution witnesses cannot be brushed aside lightly, petitioner Braham Parkash is not entitled to concession of bail.

Now coming to CRM-M-5901-2020 filed on behalf of petitioner – Pawan, who is in custody since 7.1.2017 with his petition for regular bail having been declined by learned Additional Sessions Judge, Gurugram vide order dated 17.1.2020.

Initially, co-accused Kuldeep, who was in custody in some other case was arrested in this case and he suffered a disclosure statement getting a country-made pistol recovered. He also identified the place where conspiracy to murder Manish @ Pappu had taken place. Ravi Kumar accused on being arrested had got recovered the weapon used in the commission of crime. Then accused Pawan (present petitioner), Braham Parkash, Love and Jaiveer were arrested and motorcycle used in the offence was got recovered by them. Other accused had also been arrested.

According to the State counsel, petitioner Pawan is active member of Gadauli Gang and if he is released on bail, there is reasonable apprehension of his absconding and trying to influence the prosecution witnesses by giving them threats and by use of force.

Keeping in view the facts and circumstances of the case, I do not think it a fit case for grant of concession of bail to petitioner/accused Pawan.

Therefore, finding no merit in the petitions, the same stand dismissed.

18.2.2020

Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No