

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

206

Date of Decision:- 03.11.2020

Crl. Misc.No.M-21713 of 2020

Ajay @ Symond

....Petitioner

vs.

State of Haryana

....Respondent

Crl. Misc.No.M-53808 of 2019

Ashok @ Gada

....Petitioner

vs.

State of Haryana

....Respondent

BEFORE :- HON'BLE MR. JUSTICE SUDHIR MITTAL

Present:- Mr. Sanchit Punia, Advocate,
for the petitioner in Crl.Misc.No.M-21713 of 2020.

Mr. Sunil Saharan Advocate,
for the petitioner in Crl. Misc.No.M-53808 of 2019.

Mr. Munish Sharma, AAG, Haryana.

Mr. Ajay Kansal, Advocate,
for the complainant in both cases.

Sudhir Mittal, J. (Oral)

This order shall dispose of Crl. Misc.No.M-21713 of 2020 and Crl. Misc.No.M-53808 of 2019 as the petitioners therein are co-accused in the same criminal case.

2. According to the FIR, three persons suddenly barged into the shop of the complainant and fired at him. One of the bullets hit him in the chest. The assailants were not known to the complainant but the incident was recorded in the CCTV installed in the shop. This resulted in registration of FIR No.269 dated 18.04.2016 registered at Police Station City Jind, under Sections 307, 120-B, 216, 34 IPC and Section 25 of the Arms Act, 1959.

3. Learned counsel for the petitioner Ajay @ Symond submits that no injury is attributed to him. The only allegation against this petitioner is that he also fired at the complainant. The petitioner has been in custody since 26.05.2016 but the trial is not likely to be concluded at an early date as some of the co-accused have absconded and the trial is being delayed. The petitioner cannot be held responsible for the conduct of the co-accused and keeping in view the custody period, he deserves to be granted regular bail. Some of the co-accused have been granted regular bail meanwhile.

4. Learned counsel for the petitioner Ashok @ Gada submits in addition that there is no evidence against the petitioner apart from his disclosure statement and the disclosure of the co-accused. Four other criminal cases were registered against the petitioner but he has been acquitted in all of them and, thus, it is evident that the petitioner is being falsely implicated.

5. Learned State counsel as well as counsel for the complainant oppose the prayer for bail. They submit that the incident was captured in the CCTV installed in the shop. Therein, the petitioners are clearly visible and are seen using their respective fire-arms. There is evidence on record to indicate that the petitioners are hired killers and, thus, it makes no difference whether a shot fired by either of them hit the complainant/injured or not. The intention to kill is evident considering the nature of the incident. The petitioners cannot seek parity with the other co-accused as the others were involved on the basis of Section 120-B IPC. Moreover, the co-accused are systematically jumping bail to intentionally delay the trial. Three of them have in fact been declared proclaimed offenders. Thus, even though the petitioners have been in custody since 26.05.2016, they do not deserve to be

granted regular bail.

6. The primary issue argued by learned counsel for the parties is whether on account of the period of custody already undergone, the petitioners deserve to be released on regular bail?

7. It is not in dispute that the petitioners have been in custody for almost four years and six months. Against petitioner Vijay @ Symond, there is no other pending criminal case whereas against petitioner Ashok @ Gada, four other cases were registered although he has been acquitted in the same.

8. From the submissions of counsel for the State as well as the complainant, it is evident that the images of the petitioners were captured in the CCTV footage. This has not even been denied by counsel for the petitioners. It is also admitted that the petitioners were not known to the complainant. Evidently, they are hired killers as has been stated by counsel for the respondents. The trial is being delayed on account of the conduct of the accused. The petitioners cannot claim any benefit on account of the conduct of the co-accused by arguing that they are not responsible for the conduct of the co-accused. Attempt to delay the conclusion of the trial is evident from the fact that the co-accused have jumped bail and had to be declared proclaimed offenders. All the accused have to suffer the consequences if some of them are delaying the conclusion of the trial.

9. Thus, the petitioners do not deserve to be granted regular bail.

10. Petitions are without merit and are accordingly dismissed.

November 03, 2020

poonam

(SUDHIR MITTAL)

JUDGE

Whether Speaking/Reasoned

Yes

Whether Reportable

No