

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

**CRM-M-45221-2019  
Date of decision: 15.01.2020**

**Sagar and another**

**...Petitioners**

**Versus**

**State of Haryana**

**...Respondent**

**CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

Present:- Mr. Atul Gaur, Advocate  
for the petitioners.

Mr. Naveen Sheoran, DAG, Haryana.

**ARVIND SINGH SANGWAN, J. (Oral)**

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioners in case FIR No. 731 dated 04.08.2017, registered under Sections 148, 149, 302, 307 and 414 of the IPC; Section 25 of the Arms Act, 1959 and Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 at Police Station City Hisar, District Hisar.

Learned counsel for the petitioners relies upon order dated 16.11.2018 passed in CRM-m-48949-2018, wherein co-accused Chota Shankar @ Shankar was granted concession of regular bail by passing the following order:

“The petitioners are facing trial in aforesaid case on the allegations that in the intervening night of 03/04.08.2017, co-accused Shankar Balmiki and Parveen Saini having pistol and kappa respectively accompanied by the petitioners and four more accomplice namely Pandit, Ramesh, Abshisek and Sagar, who were also

armed with lathis, came in front of the house of deceased Sunil and Ajay and raised lalkara to teach them a lesson for making complaint against them in the police and started quarrelling with them. Co-accused Parveen and Shankar exhorted Sachin, who is the brother of Sunil, to step behind and not to get involved himself. Immediately thereafter, coaccused Shankar started firing. As a result thereof, Sunil, his brother Sachin and complainant-Vinod received fire injuries. Co-accused Parveen Saini also gave a kappa blow on the head of Sunil. As a result thereof, Sachin and Sunil fell on the ground and succumbed to their injuries on the way or reaching to the hospital. Noticing the gathering of people, all the accused fled away. Learned counsel contends that out of total 9 accused, 5 were arrested, 3 namely Sagar, Pandit and Ramesh were found innocent and therefore, they were placed in column No.2 of the final report under Section 173(2) Cr.P.C. Petitioners are in custody since 04.08.2017. No role is attributed to them. They are not related to any of the co-accused. They have falsely been implicated in the instant case simply on the ground that they were alleged to be present at the spot and their houses are in the same street, where the occurrence has taken place. Even, Vinod-PW1, did not attribute any role to the petitioners in court. No recovery of any weapon was effected from petitioner No.1 Chota Shankar @ Shankar whereas, only a stick was recovered from petitioner No.2 Vicky @ Bori. In post-mortem of both the deceased, only one abrasion on the toe of Sachin was found. Conclusion of trial may take sufficient long time, inasmuch as, application under Section 319 Cr.P.C. of the prosecution for summoning Sagar, Pandit and Ramesh as additional accused is still pending for 21.11.2018. There are total 25 witnesses, out of which, 1

witness has partly been examined. Therefore, no useful purpose would be served by detaining the petitioners in jail any more during trial.”

Learned counsel for the petitioners further submits that both the petitioners, Sagar and Ramesh, were also found innocent during investigation and were kept in Column No. 2, however, they were summoned as additional accused under Section 319 Cr.P.C. and they are in judicial custody since 30.09.2019.

Learned counsel for the petitioners further submits that co-accused Akash @ Angad and Abhishek have also been granted concession of regular bail by this Court, vide orders dated 28.08.2018 and 22.05.2019 passed in CRM-M-16684-2018 and CRM-M-15512-2019, respectively.

Learned counsel for the petitioners further submits that the allegations levelled against the petitioners are identical in nature to that of aforesaid co-accused and all the material witnesses have already been examined.

Learned State counsel, on instructions from ASI Krishan Kumar, has not disputed the factual position.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the fact that petitioners are in judicial custody since 30.09.2019; three of the similarly situated co-accused have already been granted concession of regular bail as noticed above and also in view of the fact that the petitioners were initially found innocent during investigation and they were later on summoned under Section 319 Cr.P.C., the instant petition is allowed.

Petitioner Sagar and Ramesh are ordered to be released on regular bail on their furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

15.01.2020  
*Waseem Ansari*

(ARVIND SINGH SANGWAN)  
JUDGE

*Whether speaking/reasoned* *Yes/No*

*Whether reportable* *Yes/No*