

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

CRM-M-343-2020 (O&M)

(1) Arun (Minor) ... Petitioner

Versus

State of Haryana ... Respondent

(2) **CRM-M-35376-2020 (O&M)**

Kartik ... Petitioner

Versus

State of Haryana ... Respondent

Date of Decision:- 26.8.2021

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Balkar Singh, Advocate for the petitioner
in CRM-M-343-2020.

Mr. Sanjay Vashisth, Advocate for the petitioner
in CRM-M-35376-2020.

Mr. Vishal Kashyap, DAG, Haryana,
assisted by ASI Mohd. Yasir.

GURVINDER SINGH GILL, J.

CRM-10851 of 2021 in CRM-M-35376 of 2020

In view of the reasons mentioned in the application, the same is
allowed and a copy of social investigation report dated 20.4.2019 is taken on
record as Annexure P-7.

Main case

1. This order shall dispose off the above mentioned two petitions filed on behalf of Arun and Kartik seeking grant of regular bail in a case registered vide FIR No. 459 dated 24.9.2018 under Sections 148/149/302/34 IPC and Sections 25/54/59 of Arms Act, 1959 at Police Station Kharkhoda, District Sonipat.
2. The FIR in question was lodged at the instance of Ramesh wherein it is alleged that he owns a '*Kiryana*' shop in the village Halalpur, which is being run by his elder son Ashu @ Ashish. On 23.9.2018, his elder son Ashu and younger son Himanshu were present at the shop. At about 9:15 P.M. when he alongwith other co-villagers was going towards the shop, they heard a sound of bullet being fired. They noticed 4-5 boys carrying pistols in their hands who were getting out of the shop of complainant's son. When the complainant ran towards the shop, he saw that both of his sons were lying in a pool of blood. Shortly thereafter, the police also reached at the spot. Although, the complainant's sons were taken to hospital but they were declared dead. The complainant alleged that some unknown boys who had some unknown grudge with his sons have murdered his sons Ashu and Himanshu and that he could identify 2-3 boys in case they are brought before him.
3. The learned counsel for the petitioners submit that they are nowhere named in the FIR and have subsequently been nominated as accused on the basis of disclosure statements allegedly made by co-accused who themselves are also not named in the FIR and had been arrested subsequently pursuant to a

supplementary statement of complainant and CCTV footage stated to be of the place of occurrence. The learned counsel has further submitted that even the report of the FSL does not fully support the case of prosecution and in these circumstances, the petitioners, who were juveniles, at the time of the alleged occurrence deserve the concession of bail. The learned counsel for the petitioner – Kartik has further submitted that while the report of the FSL does indicate that shots had been fired from the pistols recovered from Anshu and Sandeep (non-applicants) but no such opinion has been expressed as regards the pistol stated to have been recovered from the petitioner – Kartik.

4. Opposing the petition, the learned State counsel has submitted that the petitioners are desperate type of persons and are trigger-happy and the manner in which a double murder had been committed, they do not deserve any leniency. The learned State counsel has, however, informed that both the petitioners have been behind bars since the last more than 2 ½ years.
5. I have considered rival submissions addressed before this Court.
6. It is no doubt correct that the petitioners are not named in the FIR and the allegations are only to the effect that the complainant saw 4-5 armed boys running from the shop of the complainant's son Ashu where both the sons of the complainant were found in a pool of blood. As per the postmortem report, the cause of death has been opined to be injuries sustained on account of fire arm shots, which were found to be sufficient to cause death. The petitioners came to be nominated as accused on the basis of disclosure statements made by co-accused Sandeep, Shardhanand and Yash who not

only admitted their own guilt but also disclosed that about 1½ years back, Ashu (deceased) had an altercation with Anshu at a marriage function, on account of which Anshu, Shardhanand, Sandeep, Arun, Yash @ Mannu and Kartik had gathered at Gotam Colony, Narela on 23.9.2018 and had planned to murder Ashu. They further disclosed that in order to commit the murder of Ashu, accused Arun (petitioner), Sandeep and Shardhanand went on a motorcycle driven by Arun, while Kartik (petitioner), Anshu and Yash @ Mannu went on a Scooty driven by Yash and reached the grocery shop of Ashu (deceased) situated near Unique Plywood Factory, Halalpur and upon reaching there, Kartik Anshu and Sandeep fired at them with the weapons carried by them and thereafter they fled away from the spot. They further disclosed that when Ashu was lying on the ground, accused Shardhanand stabbed him with a knife. It is further the case of prosecution that while Kartik got a .315 bore country-made pistol recovered, Anshu got .9 mm pistol recovered and Sandeep got .32 bore pistol recovered. Even, Shardhanand is stated to have got a knife recovered, pursuant to their statements. The weapons and the empty cartridges recovered were sent to FSL for examination

7. Even though, the petitioners are not named in the FIR but the evidence collected during investigation especially the weapons which were got recovered at the instance of the accused would virtually nail them as regards their guilt. The brazen manner in which double murder had been committed by the accused does not leave any room for leniency. While the FSL report would suggest that the weapon being carried by the petitioner – Arun was used, no definite opinion had been expressed as regards the weapon

recovered from Kartik. In any case, the case of prosecution is not entirely based on the report of FSL and there is other evidence to indicate the complicity of the petitioner. Although, the petitioner Kartik also relied upon a social investigation report which has subsequently been placed on record as Annexure P-7 but the said report would rather indicate that the petitioner had been in bad company with unsocial elements and was addicted to criminal background.

8. Having regard to the aforestated facts and circumstances, particularly in view of the tendency of petitioners being trigger-happy, this Court does not find it to be a fit case for release of the petitioners on bail, who at present aged more than 18 years as on date and infact petitioner Kartik is aged about 21 years.
9. Both the petitions are sans merits and are hereby dismissed.

26.8.2021

kamal

Whether speaking /reasoned
Whether Reportable

Yes / No
Yes / No

(Gurvinder Singh Gill)
Judge