

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

1. CRM-M-43278-2020

Deepak

...Petitioner

Versus

State of Haryana

...Respondent

2. CRM-M-3019-2021

Ajay @ Naresh

...Petitioner

Versus

State of Haryana

...Respondent

Date of decision: 23.02.2021

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

Present:- Mr. Lakshay Bajaj, Advocate
for the petitioner in CRM-M-43278-2020.

Mr. Ravinder Malik (Ravi), Advocate
for the petitioner in CRM-M-3019-2021.

Mr. Deepak Kumar Grewal, DAG, Haryana.

Mr. Ajay Saini, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (Oral)

This common order shall dispose of above noted two petitions
as they arise out of the same FIR.

These petitions have been filed under Section 439 of the Code
of Criminal Procedure for grant of regular bail to petitioners Deepak and

Ajay @ Naresh in case FIR No. 637 dated 27.07.2020, registered under Sections 148, 149, 302, 323, 341, 120-B of the IPC at Police Station City Panipat, District Panipat.

Learned counsel for the petitioners have relied upon orders dated 14.12.2020 and 13.01.2021 passed in CRM-M Nos. 40831 of 2020 and 929 of 2021, respectively, vide which co-accused Prem @ Goga and Darshana @ Bunni have been granted concession of regular bail by this Court. The operative part of the order dated 13.01.2021 reads as under:

“Counsel for the petitioner has relied upon the order dated 14.12.2020 passed in CRM-M No.40831 of 2020 vide which one of the co-accused of the petitioner namely Prem @ Goga, was granted the concession of regular bail by passing the following order:-

“Counsel for the petitioner has submitted that as per the version given in the FIR registered at the statement of Pritam Singh, he received an information that his nephew Manpreet @ Sonu is lying in an injured condition near Tau Devi Lal Complex Gali near Sai Tower. His nephew was working in an A.C. shop. It is further stated in the FIR that the complainant, at his own, found that initially Anil, Aashu, Vicky and Suraj residents of Jagjeevan Ram Colony Panipat, came on a Scooty and had a fight with Manpreet @ Sonu yesterday night at Mahabir Colony. Thereafter, Sunny, Ajay, Golu and Prem @ Goga (petitioner), Deepak, Suman, Darshana, Ashok and some other persons came on their motorcycles armed with sticks and attacked Manpreet @ Sonu with intention to kill him, which led to his death.

Learned counsel for the petitioner has

submitted that after registration of the FIR, police has recorded a supplementary statement of complainant – Pritam Singh, in which he has stated that he has a DVD/video clipping regarding the incident, when his nephew Manpreet @ Sonu was murdered. It is stated in the statement dated 29.07.2020 that accused can be seen attacking his nephew Manpreet @ Sonu. Learned counsel for the petitioner has argued that in fact, there was two incidents which have come in the disclosure statements of main accused Aashu @ Sahil, Anil @ Nilu and Sunny. Counsel has referred to their disclosure statements, wherein they have stated that on 26.07.2020 at night, as per their plan, they were proceeding to the A.C. shop of Manpreet @ Sonu and along with them, there were nine other persons including petitioner Prem @ Goga. When they reached there, Manpreet @ Sonu and five of his friends were going after closing the shop, accused persons attacked them, on which Manpreet @ Sonu and his friends ran away from there. It is further stated in the disclosure statements of these accused that four of them i.e. Aashu @ Sahil, Anil @ Nilu, Sunny and Vicky stayed there with intention to kill Manpreet @ Sonu and they conspired together and prepared a plan that they will go on a scooty to find him. Thereafter, they found Manpreet @ Sonu running near Tau Devi Lal Complex Gali near Sai Tower and all of four followed him on scooty and hit him with sticks and caused injuries, due to which he loss his consciousness.

Learned counsel for the petitioner has argued that in fact, there were two incidents, the

petitioner along with nine other persons were referred to as accused in the first incident, when deceased – Manpreet @ Sonu ran away and in the second incident, four persons named above caused him fatal injuries. Learned counsel further submitted that even the place of both the incidents are different. It is further argued that the petitioner is nowhere seen in the CCTV/video footage, which is submitted by the complainant while giving his supplementary statement and therefore, presence of the petitioner at the spot is highly doubtful. Counsel has lastly argued that even, while submitting the report under Section 173 (2) Cr.P.C., the police has submitted the challan against the petitioner under only Sections 148, 149 and 323 of IPC.

In reply, learned State counsel has not disputed the factual situation, however, submitted that mere mentioning of sections while submitting the challan, may not be relevant at that stage as the same are to be seen at the time of framing of the charge.

After hearing the learned counsel for the parties and considering the submissions made by them, I find it to be a fit case to grant concession of regular bail. Thus, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.”

Counsel for the petitioner has further submitted that as per allegations in the FIR, 04 male persons i.e. Ashu @ Sahil, Anil @ Nolu, Sunny @ Nota and Vicky were there, who caused the injuries to the deceased Manpreet @ Sonu. It is also submitted that the petitioner was allegedly name in the first incident and was not even present when the second incident took place when the injuries were caused to the victim. It is further argue that the petitioner is a household lady and is not involved in any other case.”

Learned counsel for the petitioners further submitted that the petitioners were nominated in the first incident and they were not present when the second incident took place and injuries were caused to the victim.

Learned State counsel has filed the affidavit of Inspector/SHO, PS- City, Panipat, wherein it is stated that on verification of the fact, four persons, namely Sunny s/o Madan, Ashu @ Sahil, Anil @ Nolu and Vicky were found to have caused the fatal injuries to victim as per the CCTV footage and scene of the crime.

In reply, learned counsel for the complainant submitted that the petitioners along with aforesaid four persons had a common intention to commit the offence.

After hearing learned counsel for the parties, in view of the aforesaid affidavit of the Inspector/SHO, this Court finds that the issue whether the petitioners had a meeting of mind with aforesaid four accused, who committed offence of causing fatal injuries to the victim, is to be seen during the course of trial.

Accordingly, the present petitions are allowed and petitioners Deepak and Ajay @ Naresh are ordered to be released on regular bail on

their furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate concerned.

However, it is made clear that the observations made herein are only for the purpose of deciding the present bail applications and the same have no bearing on the merits of the case.

A photocopy of this order be placed on the file of other connected case.

23.02.2021
Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No