

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

1. CRM-M-9782-2020 (O&M)

Malkeet Singh @ Nikka

...Petitioner

Versus

State of Punjab

...Respondent

2. CRM-M-19947-2020 (O&M)

Sajan @ Gourav

...Petitioner

Versus

State of Punjab

...Respondent

Date of decision: 06.04.2021

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

Present:- Mr. A. K. Khunger, Advocate
for the petitioner(s).

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

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

Prayer in these petitions, filed under Section 439 of the Code of
Criminal Procedure, is for grant of regular bail to petitioners in case FIR
No. 0227 dated 19.10.2019, registered under Sections 304, 323,34 of the
IPC at Police Station City-I Abohar, District Fazilka.

Learned counsel for the petitioners submits that as per

allegations in the FIR, registered at the instance of injured Akashdeep (since deceased), on 30.09.2019, when he along with Davinder @ Anmol, who is son of his paternal uncle, were standing near the gate of the school, Janta Singh, Happy, Bunty and Sajan, carrying weapons like baseball bats, spade handle etc., came there and caused multiple injuries to him.

Learned counsel for the petitioners further submits that the injured victim was admitted in a hospital, where his medico-legal examination was conducted and Rapat No. 41 and Rapat No. 47 were recorded on the statement of Akashdeep and Davinder @ Anmol. Later on, Akashdeep was discharged from the hospital, however, due to some complications, he was again admitted on 18.10.2019 in a hospital at Sri Ganganagar and on the next day i.e. 19.10.2019, he died. As per postmortem report, cause of the death was head injury.

Learned counsel for the petitioners further submits that both the petitioners are in judicial custody for the last about 01 year and 05 months.

Learned counsel relies upon the statement of injured witness Davinder @ Anmol, who appeared as PW-4, wherein he has stated that on 30.09.2019, some unknown persons with muffled faces caused injuries to him and Akashdeep. This witness was declared hostile and in cross-examination, he denied that he got any statement recorded to the police naming the accused persons. Similar is the statement of PW-2 Ajay, who was declared hostile as he did not support the prosecution version.

Learned counsel further refers to the statement of PW-5 Manjeet Kaur, mother of the deceased, who has also stated that some unknown persons caused injuries to Akashdeep and Davinder @ Anmol and the accused persons were unknown to her and she could not identify the

accused persons in Court.

Learned counsel further submits that in view of the statement of aforesaid three prosecution witnesses, it will be a matter of trial whether the allegations against the petitioners are proved or not as these witnesses, who are injured and eyewitnesses, have not supported the prosecution version.

Learned State counsel, on the basis of the custody certificates as well as affidavit of the DSP, concerned, has not disputed the contents of the FIR; investigation as well as the fact that some of the witnesses have been declared hostile.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the aforesaid facts and circumstances as well as submissions of learned counsel for the petitioners, the instant petitions are allowed. Petitioners Malkeet Singh @ Nikka and Sajan @ Gourav are ordered to be released on regular bail on their furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate concerned.

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

06.04.2021

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No