

In virtual Court

CRM-M-19422-2021

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

Date of decision: 28.06.2021

1. CRM-M-19422-2021 (O&M)

Rahul Kumar @ Mental

... Petitioner

Vs.

State of Haryana

... Respondent

2. CRM-M-21959-2021 (O&M)

Baldev Singh @ Deba

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

**Present: Mr. Raghav Sharma, Advocate
for the petitioner (in CRM-M-19422-2021).**

**Mr. Saurabh Garg, Advocate
for the petitioner (in CRM-M-21959-2021)**

Ms. Aditi Girdhar, AAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

This is 2nd petition on behalf of petitioner Rahul Kumar @ Mental and 1st petition on behalf of petitioner Baldev Singh @ Deba, for grant of regular bail in FIR No.181 dated 14.02.2020 under Sections 394, 511, 307, 34 IPC and Section 25/54/59 of Arms Act, registered at Police Station City Thanesar, District Kurukshetra.

The common ground taken in both these petitions is that the petitioners are in custody for the last more than one year.

Learned counsel for the petitioners submit that as per allegations in the FIR, registered at the instance of Ashutosh Verma, he is having a shop by the name of Hardik Jewellers and on the date of incident at about 8.30 pm, when he was going to close the shop, a young boy came, who was wearing black coloured cloths and enquired about making of jewelery. The complainant became suspicious about activity of the boy and stated that it is time for closing of shop and he cannot entertain him. In the meantime, another young boy came inside and they kept on pressurizing the complainant to show them the jewelery, again a third boy came holding a pistol and pointed it towards him. In the meantime, his wife came from the back door of the shop and the boy holding the pistol fired at the complainant, which hit on the left arm and it was witnessed by his wife. Thereafter, all the three boys ran away from the shop on the motorcycle.

Learned counsel for the petitioners have further submitted that on completion of the investigation, challan was presented; charges were framed

and the complainant has appeared as PW3, whereas his wife Monika appeared as PW4. Learned counsel, with reference to these two depositions, has submitted that PW3 has stated that he is doubtful whether the accused persons present in the Court are the same persons, who attacked him and volunteered that they were partially having muffled faces. He has further stated that CCTV camera has been installed in the shop of his brother, opposite to his shop. Thereafter, the Public Prosecutor declared this witness hostile and was allowed to cross-examination him. In cross-examination, this witness has stated that as per CCTV footage/recording, assailants were not having any muffled faces. It is further submitted that PW4 Monika has also stated so that she could not see the faces of two persons as they were having muffled faces. This witness was also declared hostile by the Public Prosecutor and in cross-examination, she made a similar statement.

It is further submitted that faces of both the petitioners are not identifiable in the CCTV footage, which was installed across the road. It is next submitted that there are discrepancies in the statements of both the witnesses, who have not identified the petitioners as the offenders, therefore, it will be a matter of trial whether identity of the petitioners is proved or not. It is also submitted that one co-accused of the petitioners, namely Sukhdev Singh has already been granted the concession of regular bail vide order dated 28.01.2021 passed in CRM-M-26035-2020.

Learned counsel for the petitioners have also submitted that though the petitioners are involved in two other FIRs, however, they are on bail in both

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these cases and the trial is not proceeding due to COVID-19 situation, therefore, considering the fact that they are in custody for the last more than 01 year, they may be released on regular bail.

Learned State counsel has filed the custody certificates dated 27.06.2021 of both the petitioners in the Court today, according to which, they are in custody for the last more than 01 year. Learned State counsel could not dispute the fact that recording in the CCTV footage is not clear.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering the long custody of the petitioners and the fact that both the eye-witnesses have not identified the accused in the Court, both these petitions are allowed and the petitioners are directed to be released on regular bail subject to furnishing their bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Both the petitions are disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

28.06.2021
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No