

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

208 (2 cases)

CRM-M-28931-2020

Date of decision:-19.07.2021

Gurjeet Singh

... Petitioner

Versus

State of Punjab

... Respondent

CRM-M-52743-2019

Date of decision :- 19.07.2021

Pawan Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Ranbir Singh Sekhon, Advocate
for the petitioner (in CRM-M-28931-2020).

Mr. Salil Dev Singh Bali, Advocate
for the petitioner (in CRM-M-52743-2019)

Mr. Ajay Pal Singh Gill, DAG, Punjab.

Mr. D.K.Sihaag, Advocate
for the complainant (in both cases).

...

SUVIR SEHGAL, J. (ORAL)

The Court has been convened through video conferencing due to
Covid-19 pandemic.

This order shall dispose of **CRM-M-28931-2020 titled 'Gurjeet Singh vs State of Punjab'** and **CRM-M-52743-2019 titled 'Pawan Kumar vs State of Punjab'** as both the petitioners are named as accused and have filed petitions under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.206 dated 24.08.2019 under Sections 302, 148 and 149 of the Indian Penal Code, 1860, registered at Police Station Sadar Fazilka, District Fazilka.

FIR (Annexure P-1) has been registered on the statement of Kuldeep Kumar on the allegation that on 23.08.2019, his brother, Sandeep Kumar, became an innocent victim of a fight in which Gautam, Rakesh Kumar, Manpreet Singh together with some 8 to 10 boys were beating up Lekh Raj due to a personal grudge. The accused assaulted Sandeep Kumar because of his being a friend of Lekh Raj and he was stabbed by Rakesh Kumar. Sandeep Kumar was taken to the hospital where he was declared brought dead. Gurjeet Singh (petitioner in CRM-M-28931-2020) was arrested on 31.08.2019 and Pawan Kumar (petitioner in CRM-M-52743-2019) was arrested on 28.09.2019.

Counsel representing the petitioners submit that the petitioners have not been named in the FIR nor any injury has been attributed to them. It is their contention that the petitioners have been roped in on the basis of supplementary statement of co-accused, which has been recorded four days after the incident. Counsel has made a reference to the police report, MLR and Post Mortem Report to submit that the deceased was taken to the hospital by some other person and not the complainant. It has been urged

that the investigation is complete, challan has been presented, prosecution evidence is under way and the petitioners, who are in custody, deserve to be enlarged on bail.

Per contra, learned State Counsel who is assisted by counsel for complainant, upon instructions from ASI Lakhwinder Singh has opposed the petition on the ground that a cold blooded murder has been committed and the petitioners were members of the unlawful assembly, who without any provocation, attacked the deceased. As per his instructions, wooden dasta has been recovered from accused-Pawan Kumar, though no recovery has been effected from the accused-Gurjeet Singh. He submits that the challan has been presented against the petitioners on 26.11.2019, charge has been framed on 17.01.2020 and prosecution evidence is in process.

I have considered the respective submissions of counsel for the parties.

Having considered the arguments, this Court is of the opinion it is debatable as to whether the petitioners are responsible for the homicide of Sandeep Kumar and the petitioners who are in custody for more than one year and eight months are entitled to be released on bail. The trial is likely to take time to conclude and no purpose would be served by keeping the petitioners behind bars any further.

Without commenting on the merits of the case, the petitions are allowed and the petitioners-Gurjeet Singh and Pawan Kumar are ordered to be released on bail on their furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

It is clarified that any observation made hereinabove shall not be construed to be a reflection of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

19.07.2021
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No