

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

(Through video conferencing)

**1. CRM-M No.19944 of 2021
Date of Decision: 26.08.2021**

Vikas @ VikkuPetitioner

Vs

State of HaryanaRespondent

2. CRM-M No.20675 of 2021

Vikas @ VikkuPetitioner

Vs

State of HaryanaRespondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. Gaurav Tyagi, Advocate
for the petitioner.

Mr. Anant Kataria, D.A.G., Haryana.

Mr. Sushil Jain, Advocate
for the complainant.

RAJ MOHAN SINGH, J.

[1]. Vide this common order, CRM-M Nos.19944 and 20675
of 2021 are being decided.

[2]. Replies filed by Sandeep Kumar, HPS, Deputy
Superintendent of Police, Madlauda, District Panipat and Om

Parkash, HPS, Deputy Superintendent of Police, Madlauda, District Karnal are taken on record.

[3]. Petitioner seeks grant of regular bail in case bearing FIR No.246 dated 20.08.2020, registered under Sections 195-A, 307, 34, 216, 120-B, 201 IPC and Section 25 of the Arms Act at P.S. Israna, District Panipat. Petitioner also seeks grant of regular bail in case bearing FIR No.389 dated 15.08.2020 registered under Sections 285, 34, 393 (deleted), 506 IPC, Sections 392, 394 IPC (added later on) and Section 25 of the Arms Act at P.S. Gharaunda, District Karnal.

Since both the FIRs have arisen out of similar controversy, therefore, for brevity common facts are being noticed.

[4]. FIR No.246 dated 20.08.2020 was registered at the instance of Dhajja Ram with the allegations that his sons namely Dharamvir and Dharampal run a dhaba in village Kohand, Tehsil Gharaunda, District Karnal. On 14.08.2020, Vikas @ Vikku (petitioner), Manish and Satish had committed loot after firing, giving threats and beatings. FIR No.389 dated 15.08.2020 was registered in this regard in the Police Station Gharaunda. Even after registration of the said FIR, these people started giving threats to the complainant and his sons for withdrawal of FIR. On 17.08.2020 at about 9.30 P.M., son of the

complainant Dharamvir and complainant were sitting in the street in front of their house after taking meal. Vehicle of petitioner came to be stopped near the house. The petitioner along with Manish and Satish alighted from the car and ran towards the house of the complainant by giving *lalkara*. The complainant and his sons stood up on seeing them. Petitioner-Vikas @ Vikku fired from distance of about 10 steps away from the complainant with an intention to kill the complainant-party. The fire went over their heads and sons of the complainant went inside the house. The complainant fell down there. The assailants were shouting that they will finish the entire family of the complainant on that day as they have not withdrawn the FIR. Sons of the complainant also used force in their defence and on seeing the incident, the complainant became unconscious and thereafter he did not know what had happened there. After sometime, he regained the consciousness and saw that crowd was there along with police party. Satish and Manish had died. It came to the notice of the complainant that the petitioner had ran away with weapons and vehicle. The complainant could not submit the complaint to the Police and the same was submitted on 20.08.2020.

[5]. In respect of deaths of Satish and Manish, FIR No.243 was registered on 18.08.2020 in Police Station Israna at the

instance of Praveen. The prosecution story in the aforesaid FIR started with the allegation that the complainant-Praveen alleged that they were two brothers. Manish was elder and complainant was younger. Manish and his brother-in-law have one R.O. Plant jointly. Manish and Satish of the village were friends. On 14.08.2020, Dharambir got registered a case in Police Station Gharaunda, Karnal regarding attempt to rob and giving beatings against Vikas, Satish and others at Hotel Dharam near Kohand which is run by Dharambir, Dharam Pal, Rajbir sons of Dhajja Ram and Ajay, Vijay sons of Dharambir etc. None was arrested in that incident of 14.08.2020. On 17.08.2020 at about 8.30 P.M., Vikas came to meet brother of the complainant namely Manish at the R.O. Plant in his car and said that he had talked with Dharambir etc. in connection of the case for striking a compromise. He asked the brother of the complainant to go along with him at village Bandh so that the matter can be settled. On insistence of Vikas, brother of the complainant namely Manish, his brother-in-law Rajesh, complainant and Satish went in the car. When they reached near house of Dharambir, then Dharambir, Dharampal, Rajbir, Ajay, Vijay, wife of Dharam Pal, wife of Rajbir, Sushil son of Rajpal, Sandeep son of Azad and 8-10 other persons were found standing there well equipped with arms, *dandas* and *lathis* etc. They suddenly opened attack on Praveen etc. Rajbir was armed with revolver,

Dharambir was armed with *gandasi*, Dharampal was having *lathi* and others were having *bindas* and *lathis*. Dharambir gave a *lalkara* to teach them a lesson for fighting at Dhaba and they should not be left alive. Thereafter Rajbir started firing from his revolver towards Manish and Satish. Manish and Satish got injured in the firing and fell down. After falling down Dhrambir started attacking Satish with his *gandasi* and inflicted injuries upon him. Remaining also started attacking Manish and Satish with their respective weapons. When the complainant tried to save them, the assailants also came towards them with their respective weapons and they had to save their lives by leaving the spot. Manish and Satish ultimately succumbed to their injuries.

[6]. Prior to the aforesaid incident, FIR No.389 dated 15.08.2020 was registered at the instance of Dharam Pal son of Dhajja Ram. This FIR is the basis for which the accused visited house of the complainant for effecting compromise. As per allegations in this FIR, on 14.08.2020 at about 11.40 P.M., a black colour car came to the Dhaba of the complainant. Four persons were present in the car. They came inside the restaurant/Dhaba duly armed with weapons. They came at cash counter while pointing their weapons towards the complainant and asked him to hand over the money. The complainant was

frightened and told them that he has no money. Then one of them threw him out of the counter and took out all the cash by opening the counter which was about Rs.60,000/-. Nephew of the complainant namely Vijay was present there. When Vijay opposed them, then the accused hit him with but of the pistol and he received injuries. Blood was oozing from the nose of Vijay and he fell down. Thereafter the accused snatched the golden chain from the complainant and his nephew. When workers of the Dhaba opposed the accused, then they also scolded and threatened them. The accused threatened the complainant party that in case they inform the Police, they will shut down the Dhaba forever. At that time some of the customers were having meal, who ran away after leaving the meal midway. The accused also fired in air outside the Dhaba. Complainant know one of the assailants as Vikas son of Sumer. The complainant informed the Police Station Israna as their family members were living in that village. The incident was captured in the CCTV. The name of other assailant was Satish.

[7]. Apparently, the petitioner is accused in FIR No.246 dated 20.08.2020 and FIR No.389 dated 15.08.2020. Two persons namely Manish and Satish from the petitioner's side were killed by the complainant-party. In FIR No.243 dated 18.08.2020, Praveen is the complainant and this FIR is against

nine persons for killing Manish and Satish.

[8]. Learned counsel for the petitioner submitted that in the case i.e. FIR No.246 dated 20.08.2020, no specific overt act has been attributed to the petitioner. The said FIR is counter-blast of FIR No.243 dated 18.08.2020 in which Manish and Satish from the side of petitioner were killed by the complainant party. In FIR No.246 dated 20.08.2020 and FIR No.389 dated 15.08.2020, the prosecution story is tainted. Even two disclosure statements have been allegedly made by the petitioner in respect of country made pistol. There is no evidence on record that the petitioner had fired upon the complainant in the present case(s). The firing mechanism and whether firing was made from the pistol allegedly recovered from the petitioner would remain debatable on the basis of expert report. Petitioner was not engaged in any firing in the present case(s), therefore, there was no question of any firing from the pistol allegedly recovered from the petitioner. Mere recovery of pistol without there being any corresponding injury to any of the complainant party would not attract the offence under Section 307 IPC. None was injured. The alleged fire passed over the head of the complainant party is farce in view of the fact that two of the persons from petitioner's side were killed in this very occurrence dated 17.08.2020. The FIR No.246 is delayed by three days and is the result of concoction.

[9]. Learned State counsel as well as learned counsel for the complainant have opposed the bail on the basis of material collected by the Police during the course of investigation.

[10]. I have considered the submissions made by learned counsel for the parties and have perused the material on record.

[11]. The Police has investigated the aforesaid cases. The preliminary investigation was done by SI Rajpal. Further investigation of the case was entrusted to ASI Rajinder Singh, who raided the houses of the accused persons, but they succeeded in hiding themselves. Statement of complainant-Dhajja Ram was recorded on 19.09.2020 under Section 161 Cr.P.C. Section 216 IPC was added on 19.09.2020 on the premise that the petitioner and his brother Amit have absconded through their mother Krishna Devi, who is helping them with money etc. She used to go to meet them after making telephonic call. Co-accused Krishna Devi was arrested on 19.09.2020 and on interrogation she got her disclosure statement recorded on 19.09.2020 admitting the manner in which she committed the conspiracy with the petitioner. As per her disclosure statement, her family had a dispute with the family of Dhajja Ram. In order to take revenge, her younger son Vikas @ Vikku with his companion had come to village Bandh in the previous month to fulfill his revenge. Friends of his son

Vikas @ Vikku died in the incident and his son ran away from the spot. She came in contact with his son Vikas @ Vikku and provided financial help to him and also made him to alert not to enter in the village.

[12]. Petitioner and Roshan were arrested on the basis of secret information on 26.09.2020. One loaded country made pistol 315 bore was recovered from the petitioner. Their disclosure statements were also recorded wherein they admitted the manner in which they have committed the crime. In his disclosure statement Roshan stated that the petitioner had come to meet him on 17.08.2020 and his brother Amit is his friend and he was already known to him. He apprised him that he had fired gunshots in village Bandh and his friends Satish and Manish have died at the spot. He asked for shelter as he was not having any shelter. Roshan accompanied the petitioner in his vehicle to Haridwar, where they stayed for 4-5 days and thereafter Roshan took the petitioner to his known person namely Neeraj R/o Jagdishpura, District Hardoi, UP and stayed there for about 7 days. Roshan and the petitioner also stayed with their friend at Delhi for about 4-5 days. Roshan had been going with the petitioner at village Bandh to take revenge of their friends.

[13]. As per disclosure statement of the petitioner, on

14.08.2020 he along with his friends consumed alcohol. His friends asked him to bring more wine. Petitioner replied that he was having no money to bring wine. Thereafter, he said to his friends that Brahman of his village has been running a hotel near village Kohand and is having good earning. Petitioner asked his friends to commit a loot from the dhaba and then consume alcohol. They reached at dhaba in their car. Munesh was having arms weapon and the same was taken by the petitioner on the way. After reaching the hotel, they started beating owner of the Hotel namely Ajay and his companion and committed loot on the gun point. They took money from the safe. Thereafter they came to Panipat and again consumed alcohol. Petitioner was informed by his brother Amit on 15.08.2020 that Ajay had lodged an FIR of loot and dacoity against them. Thereafter petitioner had not returned to his house. On 17.08.2020, petitioner's brother Amit made a telephonic call to the petitioner that they will teach a lesson to Ajay and his family members for registration of the FIR and they have also broken their CCTV cameras etc. Petitioner apprised the entire matter to his friends Manish and Satish for taking revenge. They also agreed to take revenge from hotel owner for registration of FIR against them.

[14]. Petitioner along with Manish and Satish reached the

village Bandh to take revenge. Petitioner was having a country made pistol. When they reached in front of house of Dhajja Ram, Manish and Satish alighted from the vehicle and kicked the door of the house and started abusing. Due to the darkness, the petitioner had seen a person present at the roof of the house. Petitioner fired by targeting the said person to kill him. Thereafter, petitioner heard voices of fire arms and saw that Manish and Satish have been hit by fire arms. Petitioner realized that family of Dhajja Ram was in full preparation, then he ran away from the spot with weapon in the vehicle. Empty cartridges were lying in the vehicle. Thereafter petitioner and friend of his brother namely Roshan had gone to Haridwar in the vehicle. Petitioner thrown the empty cartridge in Ganga river at Haridwar. Petitioner hide the country made pistol in the basement parking of Mittal Mega Mall. Petitioner had purchased one country made pistol and one live cartridge to commit murder of family of Dhajja Ram, which he had already recovered in his earlier case. The vehicle used in the crime and country made pistol were kept hidden in the parking of Mittal Mega Mall.

[15]. Petitioner is a habitual criminal having involved in 12 cases in Police Station(s) City Panipat, Israna and Gharaunda. As per affidavit of Om Parkash, HPS, Deputy Superintendent of Police, Madlauda, District Panipat, a chain of gold and

Rs.7,000/- were got recovered by the petitioner in FIR No.389 dated 15.08.2020 under Sections 285, 392, 394, 506, 34 IPC and Sections 25, 54, 59 of the Arms Act. One country made pistol .315 bore with one live cartridge was recovered on 26.09.2020 and one car Fiat Punto along with one country made pistol .32 bore with two live cartridges were also got recovered on 01.10.2020 in FIR No.246 dated 20.08.2020.

[16]. Perusal of the prosecution version arising out of FIR No.246 dated 20.08.2020 and FIR No.389 dated 15.08.2020 would show that the petitioner was offender in first point of time. He along with others looted the hotel/dhaba of the complainant Dhajja Ram. The recoveries have been effected from the petitioner in pursuance of his disclosure statement as well as disclosure statement of Roshan with whom he visited number of places. It is only after registration of FIR No.389 dated 15.08.2020 the petitioner and others thought to take revenue from Dhajja Ram and they visited the village of Dhajja Ram and opened attack on his family members which resulted in lodging of FIR No.246 dated 20.08.2020 and FIR No.243 dated 18.08.2020 in respect of death of Manish and Satish (friends of the petitioner). Over all assessment of the case would show that the petitioner is habitual in committing crimes.

[17]. Having considered the submissions, I do not find any

justification to grant bail to the petitioner in both the FIRs.
Consequently, the petitions are dismissed.

It is made clear that the observations made hereinabove are based on *prima facie* consideration of facts without making any final opinion on the merits of the case. Nothing shall be construed to mean anything on the merits of the case.

August 26, 2021	(RAJ MOHAN SINGH)
Atik	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No