

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

(1) CRM-M-22509-2020(O&M)

Braham Parkash

...Petitioner

Versus

State of Haryana

...Respondent

(2) CRM-M-6500-2021(O&M)

Pawan Kumar

...Petitioner

Versus

State of Haryana

...Respondent

Date of decision:02.12.2021

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.D.S. Matya, Advocate
for the petitioner in CRM-M-22509-2020.

Mr.Ajay Singh, Advocate
for the petitioner in CRM-M-6500-2021.

Mr.Sharad Aggarwal, AAG, Haryana.

H.S. MADAAN, J.

By this order, I shall dispose of two petitions i.e. CRM-M-

22509-2020 filed by petitioner/accused – Braham Parkash and CRM-M-6500-2021 filed by petitioner/accused – Pawan Kumar for grant of regular bail in case FIR No.1082 dated 18.10.2016, under Sections 148, 149, 302, 307, 120-B, 216 IPC and 25 of Arms Act, registered at Police Station City, Gurugram, District Gurugram.

Briefly stated, facts of the case as per prosecution version are that a FIR in this case was recorded on the basis of statement of complainant Karan Singh son of late Sh.Lakhi Chand, resident of House No.310/25, Shakti Nagar, near Pataudi Chowk, Gurugram, who *inter alia* stated that he had got four children i.e. three sons and one daughter; his elder son Manish Kumar @ Pappu was engaged in the business of dairy farming and sale of liquor; he had a liquor vend near New Colony turning, old Railway Road, opposite Prem Mandir; on 17.10.2016 at about 9:00/10:00 p.m. while the complainant was sitting at such liquor vend, then at about 11:45 p.m. son of the complainant Manish Kumar @ Pappu along with his driver Sukhvair and Liyaqat came to the liquor vend in his Hyundai Creta car to collect cash; the car was being driven by Sukhvair and Manish @ Pappu was sitting on the front seat whereas Liyakat was sitting on the rear seat; the moment the car stopped in front of the liquor vend and Kamlesh Salesman took cash near the car, in the meanwhile 8-10 young persons having weapons came there and started indiscriminate firing on Manish @ Pappu and other two occupants of the car; Manish @ Pappu suffered gun shot injuries on his head, chest and abdomen; Sukhvair and Liyaqat also suffered injuries; thereafter the assailants ran away from the spot in two cars, one of which was of make Swift, white in colour,

whereas the details of the other car could not be given by the complainant; the complainant informed Ravi Kumar, a bother-in-law of Manish @ Pappu regarding the incident, who immediately reached the spot and took injured to Medhanta Hospital, however, the doctors there declared Manish @ Pappu brought dead, whereas Sukhvir and Liyaqat were admitted in the hospital for treatment; the motive for the incident was that there has been enmity between family of the complainant and family of Sandeep Gadauli and Kaushal of Naharpur, Gurugram; when Sandeep Gadauli was cremated at that time, his brother Kuldeep, Braham Parkash(present petitioner) and sister Sudesh had announced that they would not allow family of complainant to celebrate Diwali festival.

The complainant in his statement to the police further stated that he was sure that Kuldeep, Braham Parkash and Sudesh, residents of village Gadauli besides Kaushal and his brother Manish and Amit Dagar were involved in murder of Manish @ Pappu son of the complainant. He stated that he could identify the persons, who had fired shots at his son.

Accused were arrested in this case. They had filed petitions for grant of regular bail in the Court of Sessions but were unsuccessful there. They had approached this Court earlier by way of filing petitions i.e. CRM-M-44355-2018 filed by accused Braham Parkash and CRM-M-5901-2020 filed by accused Pawan Kumar. However, both the petitions were dismissed vide order dated 18.2.2020. The petitioners/accused have approached this Court again coming with the similar prayer, which is being resisted by learned State counsel.

I have heard learned counsel for the parties besides going

through the record.

Petitioner/accused Braham Parkash is behind bars since 18.1.2017, whereas petitioner/accused Pawan Kumar is in custody since 17.1.2017 i.e. for a period of about five years. The trial against them is moving at very slow pace inasmuch as out of 80 PWs cited, only one PW is said to have been examined with the next date of hearing in the trial Court being 9.12.2021. With such slow pace of trial, its completion is likely to take considerable time. 11 of the co-accused of the petitioners are said to have been granted concession of regular bail, copies of orders with regard to several such accused have been placed on record. Though the allegations against the petitioners/accused are grave and serious but they cannot be ordered to be kept in custody for an indefinite period. Although petitioner/accused Braham Parkash is said to be involved in about 16 criminal cases, out of which in 9 cases, he is said to have been acquitted/discharged as detailed in the petition for regular bail, whereas he is shown to be facing trial in one case and on bail in another case having been convicted in a complaint case under Section 138 of the Negotiable Instruments Act.

As far as petitioner/accused Pawan Kumar is concerned, he is said to be involved in two more cases, acquitted in one case and convicted and sentenced in another case, the conviction being in a case under Section 174-A IPC.

Under the facts and circumstances of the case, I am of the view that the petitioners deserve to be granted concession of bail, although on stringent terms and conditions. Therefore, the petitions are

allowed and the petitioners be admitted to bail during the pendency of the trial, subject to their furnishing bail bonds and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate, Gurugram, subject to the following conditions:

- (i) they shall appear in the Court on each and every date of hearing;
- (ii) they shall not give any threat or intimidation to the prosecution witnesses;
- (iii) they shall not indulge in any criminal activity;
- (iv) they shall join the investigation as and when directed by the Investigating Officer;
- (v) they shall not leave India without prior permission of the Court; and
- (vi) they shall get their presence marked in the local police station on every Saturday of the week between 11:00 a.m. to 2:00 p.m. so that an eye can be kept on their movements and they are deterred from indulging in any criminal activity.

In addition to that the trial Court may impose any term and condition found suitable to ensure that the petitioner does not abscond and interfere in the trial.

The Court accepting bonds would ensure that sureties furnished are local having documentary proof of immovable properties in their names situated within jurisdiction of the Court of the value double the surety amount. Photographs of the sureties, attesting witnesses and the accused be got attached on the bonds and copies of the title deeds be also got attached with endorsement made on the original title deeds with regard to the said person having stood surety for the accused in this case.

In addition to that the trial Court may impose any term and condition found suitable to ensure that the petitioners do not abscond and interfere in the trial.

In case the petitioners violate any term and condition on which the bail has been granted to them, the prosecution would be entitled to apply for cancellation of bail.

02.12.2021

Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No