

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: February 25, 2021

1. CRM-M-26031-2020

Sanjay @ Pardeep

...Petitioner

Versus

State of Haryana

...Respondent

2. CRM-M-42528-2020

Ishwar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Arshdeep Singh, Advocate,
for the petitioner in CRM-M-26031-2020

Mr. Mukesh Rao, Advocate,
for the petitioner in CRM-M-42528-2020.

Mr. Sukhdeep Parmar, DAG, Haryana.

Mr. Ajit Singh Lamba, Advocate,
for the complainant.

MANOJ BAJAJ, J. (Oral)

Petitioners have filed these two petitions separately under Section 439 Cr.P.C. for grant of regular bail, pending trial in case FIR No.366 dated 14.05.2020, under Sections 148, 149, 341, 323 and 302 IPC, 1860, registered at Police Station, HTM Hisar, District Hisar. The petitioners are in custody since their arrest on 02.07.2020.

The contents of the FIR as recorded by the Additional Sessions

Judge, Hisar in his order dated 22.09.2020, whereby bail application of

petitioner-Ishwar, has been rejected, are as under:-

“Complainant Bijender got recorded his statement to the police that on 14.05.2020, at about 4.00 p.m., he along with his brother Sunil alias Sunder and Sonu was going towards Jindal factory in his car bearing No.HR-20Q-8641. He was driving the vehicle. Sunil was sitting on his front side seat and Sonu was sitting on rear seat. When he reached just ahead of shop of Monti in street No.3, Shiv Colony, Hisar, a tractor came from front side, which was being driven by son of Ishwar Kumhar. He stopped the tractor in front of his car. They could not cross the tractor being a narrow space. Sunil came down from the car and tried to understand him, but he replied in wrong words. Sonu also came down. In the meantime, 5-6 persons came out from the house of Ishwar Singh with lathis and dandas. All of them attacked upon them with their weapons. On receipt of lathi blow on the head of Sunil, he fell down on the road. Then they attacked upon him and Sonu. They also sustained head injuries. In his defence, he fired four rounds in the air with his licenced gun. Thereafter, he and Sonu ran away from the spot and got admitted in the hospital. His uncle Jaibir Singh brought Sunil in his car to Sapra Hospital, but he was referred to General Hospital, Hisar and he was declared dead by the doctor. His brother Sunil died due to injuries received by the accused-persons. On the basis of statement of complainant, a case was registered. Accused were arrested.”

Learned counsel for the petitioners have argued that the alleged occurrence took place on 14.05.2020 when an altercation took place between the parties for giving passage to their respective vehicles in the street. According to them, a cross-case has also been registered on the basis of the complaint given by petitioner-Ishwar against Bijender and Sonu through FIR No.369 dated 16.05.2020, under Sections 307, 323, 34 IPC and Section 25 Arms Act, Police Station, HTM Hisar (Annexure P-2 in CRM-

M-42528-2020). Learned counsel have further submitted that the complainant himself stated in the FIR that he fired four gun shots, which were suffered by the petitioners. In this regard, the attention of the court is invited to their respective MLRs No.SM/DB/06/14.05.2020 and SM/DB/05/14.05.2020 mentioned in the final report (Annexure P-3 in CRM-M-42528-2020). Learned counsel have further argued that the tractor was being driven by their co-accused Ravinder and the accused exercised their right to private defence and in the said occurrence, victim Sunil died of head injury. According to them, the investigation of the case is complete and the trial is likely to consume considerable time to conclude, therefore, in the given facts, the further custody of the petitioners may not be necessary. They pray for bail.

On the other hand, the prayer is opposed by the learned State counsel, assisted by ASI Ved Parkash, and the learned counsel for the complainant on the ground that the the version given by Ishwar in his FIR No.369 dated 16.05.2020 is contrary to the version given in the FIR given by Bijender. However, it is not disputed by the learned State counsel that petitioners Ishwar and Sanjay suffered multiple gun shot injuries in the alleged occurrence, and two weapons were recovered from Bijender and Sonu, (complainant and witness, respectively, in FIR No.366 dated 14.05.2020). He submits that as per FSL report, the licensed weapon of Bijender was used in the crime. He, on instructions, further states that the investigation of the case is complete in both the cases as final reports have been filed and the charges were framed against petitioners on 04.02.2021.

Considering the above background, the custody of the petitioners, it is evident that the trial in these cross-cases is likely to

consume considerable time to conclude as there are number of witnesses to be examined, therefore, the further custody of the petitioners may not be justified for any useful purpose, who are presently confined in judicial custody after their arrest on 02.07.2020. Apart from this, the prosecution witnesses are either close relatives of the victim or the police officials and at this stage, there does not seem to be any possibility of their being won over.

Resultantly, without meaning any expression of opinion on the merits of the case, the petitions are allowed and it is ordered that the petitioners be released on regular bail subject to their furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate, Hisar.

February 25, 2021
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No