

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: September 17, 2021

1. CRM-M-31331-2020

Sarwan

...Petitioner

Versus

State of Haryana

...Respondent

1. CRM-M-39052-2020

Akshey

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Sahil Gupta, Advocate,
for the petitioner in CRM-M-31331-2020.

None for the petitioner in CRM-M-39052-2020.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

MANOJ BAJAJ, J. (Oral)

Petitioners have filed these separate petitions under Section 439 Cr.P.C. for grant of regular bail, pending trial in case FIR No.45 dated 18.01.2020, under Sections 148, 149, 302, 506, 34 IPC, 1860 and 25 Arms Act, 1959, registered at Police Station, HTM Hisar, District Hisar. Petitioner Sarwan is in custody since his arrest on 04.02.2020, whereas petitioner

Akshay is in custody since 03.02.2020.

The contents of the FIR, as notice by the Sessions Judge, Hisar in his order dated 23.09.2020 annexed with CRM-M-31331 of 2020, are as under:-

“This case was registered on a complaint made by Subash son of Ramdhari, resident of village Kirmara, District Hisar wherein he alleged that on 18.01.2020 at about 12.00 O’clock he alongwith Vinit son of his nephew Satyawar went to Hisar for some work. When they were in Red Square Market, Hisar, Vinit told him that birthday party of his friend Pankaj resident of Badopatti is being celebrated in Silent Cafe, Red Square Market, Hisar and his other friends have also assembled there. Therefore, they both went to Silent Cafe where Vinit introduced him with Pankaj, Durgesh, Shiv Kumar, Sunil Jakhar, Sachin, Naveen and Paramjit. In the meantime, Raman Saharan, Akshey, Sarwan, Ravinder @ Cheeta and Pardeep alongwith 5-6 boys also came there and Vinit also introduced them to him. After sometime there was some altercation between Raman Saharan and Paramjit but they intervened and all of them left the cafe after party. Cafe owner also closed the cafe. When he and Vinit reached near Malhotra shoe shop behind Miraj Cinema, Raman Saharan, Akshey, Sarwan, Ravinder @ Cheeta and Parmajit alongwith 5-6 boys came and Raman Saharan exhorted that Vinit should not escape alive and he should be taught a lesson to save Paramjit. Upon this, 3-4 boys caught Vinit and Raman Saharan gave repeated knife blows on the back of Vinit with an intention to kill him. When he tried to save Vinit, aforesaid persons also gave him slaps and fists blows. When he raised alarm, friends of Vinit also came there. Accused ran away from the spot alongwith their respective weapons extending a threat to kill Vinit finding an opportunity in future. He shifted Vinit to Civil Hospital, Hisar but after first aid, he was referred to MAMC Agroha where he died during treatment. A request for taking necessary action against the

accused was made.”

Learned counsel appearing on behalf of petitioner Sarwan has argued that though the petitioner is named in the FIR, but the alleged act of causing death of victim Vineet is attributed to co-accused Raman, who gave the solitary knife blow. It is pointed out by him that two of the similarly situated accused, namely, Ravinder @ Cheema and Pardeep Punia, who were also named in the FIR, were declared innocent after completion of investigation, and in this regard, he has invited the attention of the court to the final report (Annexure P-5). He submits that though the trial has commenced, but only one prosecution witness has been examined so far. He prays for bail.

On the other hand, the prayer is opposed by the learned State counsel, assisted by ASI Shesh Karan, and has argued that the weapon used in the crime was handed over by petitioner Sarwan to Raman. According to him, though the charges were framed on 03.03.2021, but only one prosecution witness has been examined so far. He further submits that the weapon used in the crime was recovered from petitioner Sarwan, therefore, the petitioner does not deserve the concession of bail.

At this stage, learned counsel for petitioner has argued that the complainant is an eye witness and he stated in FIR that the co-accused Raman was carrying the knife in his hand. He has argued that co-accused Akshey is also similarly situated, therefore, they both be released on regular bail.

After hearing the learned counsel for the parties and considering the above background, this court is of the opinion that the further custody of the petitioners may not serve any useful purpose, who are

presently confined in judicial custody after their arrest on 04.02.2020 and 03.02.2020 respectively as the trial is likely to consume considerable time to conclude. Apart from it, the material witnesses are either close relatives of the victim or police officials and there does not seem to be any possibility of their being won over at this stage.

Resultantly, without meaning any expression of opinion on the merits of the case, the petition is 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/CJM/Duty Magistrate, Hisar.

September 17, 2021
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No