

In virtual Court

CRM-M-33045-2020

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 06.07.2021

1. CRM-M-33045-2020 (O&M)

Gaurav Rana

... Petitioner

Vs.

State of Haryana

... Respondent

2. CRM-M-37268-2020 (O&M)

Naseem

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Ms. Deipa Singh, Advocate for
Mr. N.S. Bhardwaj, Advocate
for the petitioner (s) (in both cases).

Mr. Tanuj Sharma, AAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in both these petitions is for grant of regular bail to petitioners Gaurav Rana and Naseem, in FIR No.288 dated 24.07.2019 under Sections 323, 34, 384, 506 IPC (Sections 120-B, 148, 149, 302 IPC and Section 3 of SC&ST Act were added later on), registered at Police Station Pinjore, District Panchkula.

Learned counsel for the petitioners submits that the FIR was registered at the instance of Vishu Goyal and Rakesh Gupta with the allegations that their company M/s Ganesh Royalty Company was granted the contract of mining by Haryana Govt. About 15-20 days prior to registration of FIR, a dacoity took place in their company and money was snatched from their employees and they were threatened that they will collect the royalty. On the complaint, case was registered against Sonu Nolta, Ismail, Gaurav Rana and some other persons. Out of them, Sonu Nolta, Ismail and Gaurav Rana were not arrested and six other persons, who were arrested, were granted bail. It is further stated that on 23.07.2019, accused persons came to the crusher zone and threatened their employees, but their employees still remained on duty and in the early morning on 24.07.2019, three persons came with covered faces and attacked one of the employee namely Satish Kumar on his head, due to which he fell down on the ground and later on, he was shifted to hospital, where he was declared dead.

Learned counsel for the petitioners further submits that two co-accused of the petitioners namely Happy and Anil have already been granted

the concession of regular bail vide order dated 16.07.2020 passed in CRM-M-15454-2020 and the order dated 25.08.2020 passed in CRM-M-23068-2020, respectively. It is also submitted that petitioner Gaurav Rana is in custody for the last more than 01 year and 11 months and petitioner Naseem is in custody for the last more than 01 year and 10 months and 13 prosecution witnesses have been examined and all the material witnesses including the complainants have not supported the prosecution version.

Learned counsel has placed reliance upon the statement of complainants Vishu Goyal and Rakesh Gupta, who appeared as PW1 and PW2, to submit that they have stated that they do not know and have not seen the persons causing injuries and attacking deceased Satish Kumar and their names were told by their employee namely Mandeep Kumar. It was further stated that they have never seen the persons or the accused persons present in the Court through video conferencing. Learned counsel has further referred to the statement of PW3 Mandeep Kumar, who has allegedly given the information to PW1 and PW2, wherein he stated that when he was working, he suddenly heard the voice and saw that deceased Satish Kumar fell down from his bike and when they reached at the spot, he was lying on the ground. With regard to identification of the petitioners, he stated that he had seen the accused persons present in the Court and stated that Nasim, Gaurav Rana, Happy, Lovely and Anil did not cause any injury to deceased Satish Kumar in his presence. This witness was declared hostile and even in cross-examination by the Public

Prosecutor, he did not support the prosecution version.

Learned counsel then referred to the statement of PW4 and PW5 Satya Parkash and Gulshan, who stated that in their presence, the accused never threatened the employees. PW6 Rinku stated that motorcycle of the deceased hit on the divider and he fell down and sustained injuries. This witness also did not identify the accused persons. Similar is the statement of PW7 Mohan @ Billa, who stated it to be a case of accident. Other witnesses are the witnesses, who have arrived at the spot subsequent to the incident and are not the eyewitnesses.

Learned State counsel has referred to the affidavit of Assistant Commissioner of Police, Panchkula, in which it is stated that during the investigation, when the accused persons were arrested, they had made disclosure statement.

On a Court query, whether apart from the disclosure statements, any other evidence has come against the accused persons, he submitted that recovery of danda and motorcycle was effected.

After hearing learned counsel for the parties, without commenting anything further on merits of the case and considering the fact that two co-accused of the petitioners have already been released on bail; the complainants as well as eyewitnesses have not supported the prosecution version; the petitioners are in custody for the last more than 01 year and 10 months and also in view of the fact that trial was delayed substantially due to COVID-19

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situation and it will take some time in conclusion of the trial, both these petitions are allowed and the petitioners are directed to be released on regular bail subject to furnishing their bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate, concerned.

**[ARVIND SINGH SANGWAN]
JUDGE**

06.07.2021
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No