

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 29.03.2022

1. CRM-M-23932-2021 (O&M)

Ashish @ Ashu @ Lal

... Petitioner

Vs.

State of Haryana

... Respondent

2. CRM-M-1480-2022 (O&M)

Dinesh Kumar @ Sanju

... Petitioner

Vs.

State of Haryana

... Respondent

3. CRM-M-389-2022 (O&M)

Manoj Kundu

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Pardhuman Garg, Advocate
for the petitioner (in CRM-M-23932-2021).

Mr. Anshumaan Dalal, Advocate
for the petitioner (in CRM-M-1480-2022).

Mr. S.S. Dinarpur, Advocate,
Mr. Subhash Godara, Advocate and
Mr. Aman Godara, Advocate
for the petitioner (in CRM-M-389-2022).

Mr. Himmat Singh, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in these petitions is for grant of regular bail to petitioners Ashish @ Ashu @ Lal, Dinesh Kumar @ Sanju and Manoj Kundu, in FIR No.465 dated 10.10.2019 under Sections 148, 149, 323, 325, 302, 307, 379-B, 427, 455, 506, 120-B IPC, registered at Police Station Sadar Thanesar, District Kurukshetra.

Learned counsel for the petitioners, at the very outset, have submitted that two persons namely Pankaj and Sukbir, who were named in the FIR, have already been granted the concession of regular bail vide order dated 14.10.2020 passed in CRM-M-29138-2020. Learned counsel have relied upon the order dated 01.11.2021 passed in CRM-M-16472-2021 and the order dated 10.01.2022 passed in CRM-M-54035-2021, vide which co-accused Rohit and Lavish Kumar @ Lavish Kajal, respectively, have been granted the concession of regular bail. The operative part of the order dated 10.01.2022 reads as under:-

“...Learned counsel for the petitioner relies upon the order dated 01.11.2021 passed in CRM-M-16472-2021, vide which co-accused Rohit was granted the concession of regular bail. The operative

part of the order reads as under: -

“...Counsel for the petitioner submits that as per the allegations made in the FIR registered at the instance of Anshul Jasuja, the complainant is having a hotel and on the date of incident, 4-5 boys came to the hotel for taking food. They were drunk and started quarreling with waiter and on this, they were asked to leave the hotel. Later in the night, they again came and attacked the hotel with weapons and caused injuries to Vijay and Sunil. Later Sunil died due to the injuries sustained in this incident.

Counsel for the petitioner submits that in the FIR, the complainant has named 2 persons i.e. Pankaj and Sukhbir as well as their companions. Counsel has referred to the statement of injured witness Vijay who appeared as PW2 to submit that he has not supported the prosecution version and he was declared hostile and when he was confronted with the statement, he denied the same. Counsel then referred to the statement of Anshul Jasuja – the complainant who was also declared hostile as he has not identified any of the accused persons including Sukhbir and Pankaj. Counsel has referred to the some order vide which the co-accused Pankaj Sharma @ Jony has already been granted the concession of regular bail vide order dated 14.10.2020 passed in CRM-M-29138-2020 (P12).

Learned State counsel on the basis of the affidavit of DSP Ladwa submits that during investigation, it was found that Didar Singh and Pankaj had made a disclosure statement that the deceased died due to infliction of iron rod injury which was caused by the present petitioner/accused as well as other accused persons and the Brezza car used in the incident was recovered from the petitioner.

*Counsel for the petitioner has referred to the orders passed by this Court vide which both the aforesaid co-accused, namely, Didar Singh and Pankaj have already been granted the concession of regular bail on 30.09.2020 passed in **CRM-M-29038-2020 (Didar Singh @ Dhari @ Fouji & Anr. Vs. State of Haryana)** (P11) and vide order dated 14.10.2020 passed in **CRM-M-29138-2020 (Pankaj Sharma @ Jony & Anr. Vs. State of Haryana)** (P12).*

Counsel submits that the petitioner's name was disclosed by the aforesaid co-accused who has already been released on regular bail and therefore, in view of the fact that neither the injured victim Vijay nor the complainant Anshul Jasuja have supported the prosecution version and therefore, there is no possibility of tampering with any witness as the main witness already stands examined. He further submits that the petitioner has undergone 1 year and 23 days of custody and is not indulged in any other case..."

For the sake of brevity, facts are not reproduced again.

Learned counsel for the petitioner submits that case of the petitioner is at par with that of co-accused Rohit and other co-accused have already been granted the concession of regular bail.

A perusal of the FIR would show that complainant Anshul Jasuja informed the police that at the time of incident, some persons came to his hotel in drunken condition and ordered food and started quarrelling with Waiter. In the FIR, names of Pankaj and Sukhbir are mentioned, whereas name of the petitioner is not mentioned and he is cited as one of the person, who was along with them.

Learned State counsel, on the basis of custody certificate dated 08.01.2022, filed in the Court today, has not disputed the factual position, as reflected in the order dated 01.11.2021 that the injured witness Vijay, who appeared as PW2 has not supported the prosecution version...”

Learned counsel further submit that all three petitioners were not named in the FIR and their case is at par with aforesaid co-accused, who have already been granted the concession of regular bail. It is further submitted that as per the FIR, complainant Anshul Jasuja has stated before the police that at the time of incident, some persons came in drunken condition and ordered foot and then started quarrelling with the Waiter and he named two persons i.e. Pankaj and Sukhbir.

Learned counsel for petitioner Ashish @ Ashu @ Lal submits that

the petitioner is in custody for the last 01 year, 05 months and 11 days and is not involved in any other case.

Learned counsel for petitioner Dinesh Kumar @ Sanju submits that the petitioner is in custody for the last more than 01 year and 05 months and is involved in one more case, however, he is on bail.

Learned counsel for petitioner Manoj Kundu submits that the petitioner is in custody for the last 01 year, 05 months and 22 days.

Learned State counsel, on the basis of custody certificates, filed in the Court today, has not disputed the aforesaid factual position and the fact that injured witness Vijay, who appeared as PW2, has not supported the prosecution version.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering the aforesaid facts and circumstances of the case, all these three petitions are allowed and petitioners Ashish @ Ashu @ Lal, Dinesh Kumar @ Sanju and Manoj Kundu are directed to be released on regular bail subject to furnishing their bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

A photocopy of this order be placed on the files of other connected cases.

[ARVIND SINGH SANGWAN]
JUDGE

29.03.2022
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No