IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 04.05.2022

1. CRM-M-7901-2022 (O&M)

Kashmir Singh @ Kashmira

... Petitioner

Vs.

State of Haryana

... Respondent

2. CRM-M-17136-2022 (O&M)

Parveen Kumar

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. S.S. Dinarpur, Advocate
for the petitioner (in CRM-M-7901-2022).

Mr. Anshumaan Dalal, Advocate
for the petitioner (in CRM-M-17136-2022).

Mr. Chetan Sharma, AAG, Haryana.

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ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in both these petitions is for grant of regular bail to

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petitioners Kashmir Singh @ Kashmira and Parveen Kumar, 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 Thanesar, District Kurukshetra.

Learned counsel for the petitioners, at the very outset, 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*

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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

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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

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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...”

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

Learned counsel have argued that both the petitioners were not named in the FIR and allegations qua them are similar to aforesaid co-accused, who have already been released on regular bail. It is further submitted that even complainant Anshul Jasuja has sworn an affidavit that the incident took place, in which some persons came in drunken condition and ordered food and then started quarrelling with the Waiter and he named two persons i.e. Pankaj and Sukhbir as the assailants and they had also been granted the concession of regular bail vide order dated 14.10.2020 passed in CRM-M-29138-2020. Learned counsel have also relied upon the order dated 29.03.2022 passed in CRM-M-23932-2021, CRM-M-1480-2022 and CRM-M-389-2022, vide which co-accused Ashish @ Ashu @ Lal, Dinesh Kumar @ Sanju and Manoj Kundu have been granted the concession of regular bail.

Learned counsel for petitioner Kashmir Singh @ Kashmira submits that the petitioner is in custody for the last 06 months and 12 days.

Learned counsel for petitioner Parveen Kumar submits that the

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petitioner is in custody for the last more than 05 months and 03 days.

Learned State counsel, on the basis of reply by way of affidavit of Investigating Officer/SI Pardeep, Police Station Sadar Thanesar, Kurukshetra and the 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, both these petitions are allowed and petitioners Kashmir Singh @ Kashmira and Parveen Kumar 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.

A photocopy of this order be placed on the file of connected case.

[ARVIND SINGH SANGWAN]
JUDGE

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

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