

CRM-M-8858-2021(O&M),
CRM-M-41561-2021(O&M),
CRM-M-9075-2021(O&M) &
CRM-M-19456-2022(O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.212

Date of decision: 19.07.2022

1. CRM-M-8858-2021(O&M)

RAMANDEEP KAUR

....Petitioner

Versus

STATE OF PUNJAB

....Respondent

2. CRM-M-9075-2021(O&M)

RAMESH KUMAR

....Petitioner

Versus

STATE OF PUNJAB

....Respondent

3. CRM-M-41561-2021(O&M)

HARJINDER SINGH GILL@ SONI

....Petitioner

Versus

STATE OF PUNJAB

....Respondent

4. CRM-M-19456-2022(O&M)

GURLAL SINGH BRAR

....Petitioner

Versus

STATE OF PUNJAB

....Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. J.S Brar, Advocate
for the petitioner in CRM-M-8858-2021.

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Mr. Inderjit Sharma, Advocate
for the petitioner in CRM-M-9075-2021.

Mr. Ankur Mittal, Advocate with
Mr. Lalit, Advocate for the petitioner in CRM-M-41561-2021.

Mr. Rajinder Goyal, Advocate
for the petitioner in CRM-M-19456-2020.

Ms. Amarjit Kaur Khurana, DAG, Punjab.
* * *

VINOD S. BHARDWAJ, J. (Oral)

The instant petitions arise out of the same FIR under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioners in case bearing FIR No.376 dated 10.10.2020, under Sections 302, 506, 120-B, 148, 149 of Indian Penal Code 1860 and under Sections 25, 27, 54 and 59 of Arms Act 1959 (Section 471, 472 & 473 added later on and Section 25 of Arms Act, 1959 deleted) registered at Police Station Zirakpur, District Mohali, SAS Nagar during the pendency of trial, in the interest of justice.

	Case No.	Name	Date of Arrest	Recovery effected
1	CRM-M-8858-2021	Ramandeep Kaur	12.10.2020	No recovery
2	CRM-M-9075-2021	Ramesh Kumar	19.10.2020	Swift car
3	CRM-M-41561-2021	Harjinder Singh Gill @ Soni	14.04.2021	No recovery
4	CRM-M-19456-2022	Gurlal Singh Brar	15.10.2020	No recovery

The facts of the case in brief are that the complainant made a statement before the police that his brother Anil Kumar was doing private

work with him. He along with his parents had gone for visiting their village Chandpur District Mandi for about 10/12 days. On 09.10.2020 his brother Anil Kumar along with his friend Manish Verma who was residing as tenant at Flat No. 105-B, Block Phase-1, Maya Garden came to VIP Road Zirakpur. The night around 2:30 AM his friend Amandeep Singh son of Harbans Singh called the complainant. He told him Anil along with his friends went for the celebration of birthday of his other friend Vinay Sharma at Playground Club Sector 26 Chandigarh. Thereafter they had food at Sethan's Dhaba at Zirakpur. They were going in a Fortuner car bearing No. HR02AG0054 to the flat of Manish Verma via VIP Road. When they were reached near Shi Shi Complex, then another Fortuner car bearing number PB04AC0053 that was going in front of their vehicle was overtaken by them. The driver of the other vehicle chased their vehicle and abused them. He went a little further and parked his car in front of their car and hit it. Two young men and a girl were in the car. Both the two young men got out from the car and threatened to kill and abused them and even punched them. He told his friend Manish about this quarrel. In the meantime his friend Manish and Anil Kumar reached the spot near Domino's Pizza VIP Road. The above said accused persons along with girl went away from the spot after threatening them to kill and said that wait a few minutes will show the result to overtake their car. About 10 minutes later, both the young men along with the girl and another red Swift vehicle number of Himachal Pradesh in which three-four unknown young men were riding arrived. Both the two young men and three-four unknown persons got out from their cars. A young man in the

Fortuner car had a pistol and as soon as he arrived, he started abusing them. Around 01:35 AM his friend Manish Verma and Anil Kumar stopped the above said accused from abusing them and tried to make them understand, then a young man holding a pistol in his hand raised a 'lalkara' that "I am Happy Brar Faridkotia , I will show you the result " , and all the other unknown persons also raised ' lalkara ' . The accused had given threat to kill them. In the meantime the accused Happy Brar Faridkotia had fired 3-4 rounds by the pistol which was in his hand, into the stomach of Anil Kumar. Anil Kumar fell to the ground oozing with blood. Thereafter all these young men started beating him and his friend. When he raised alarm " Marta Marta " , then all the accused persons along with Happy Brar Faridkotia fled from the spot in their respective vehicles with their weapons . Thereafter he along with his friend Manish and others rushed to Care Hospital VIP Road for the treatment of his injured friend Anil Kumar, where in the emergency ward the doctor examined his friend Anil Kumar and declared him dead. The dead body of Anil Kumar had been kept at Mortuary House Civil Hospital Dera Bassi. The reason for this act was that the aforesaid Happy Brar had objected to overtaking his vehicle and all the perpetrators had conspired with each other and carried out a deadly attack on them. The complainant was informed by Amandeep Singh and the complainant made his statement before the police. On the statement of the complainant the FIR was registered.

Learned counsels for the petitioners have argued that the deceased-Anil Kumar had died on account of bullet injuries which are

alleged to have been fired by Happy Brar who is alleged to be in custody. It is contended that no recovery has been effected from the petitioners except for the petitioner Ramesh Kumar from whom the Swift car has been recovered. Qua Ramandeep Kaur and Gurlal Singh, they are stated to have accompanied the main accused Happy Brar in the Fortuner car being driven by him, however, they have not been attributed any overt act resulting in the death of Anil Kumar. Insofar as the other two accused namely Harjinder Singh and Ramesh Kumar are concerned, they are alleged to be the persons accompanying Happy Brar and the other co-accused in the Swift car. However, there is no attribution or overt act resulting in any injury to the deceased at the hands of the petitioners. Besides, there is no recovery other than a car effected from Ramesh Kumar, from either of the petitioners. It is further contended that petitioners are not involved in any other case except for petitioner Harjinder Singh in CRM-M-41561-2021 who is involved in some petty matters in 2010-11, which have already been resolved. It is, thus, contended that there are no criminal antecedents of the petitioners. Besides, the trial is still at initial stage as only three witnesses have been examined out of a total of 49 witnesses cited by the prosecution. Further reference is also made to the statement of PW1 Sunil Kumar (complainant), brother of deceased Anil Kumar who has not substantiated the prosecution version.

Learned State counsel has however contended that the petitioners had accompanied the main assailant Happy Brar with a premeditated intent and therefore, caused murder of Anil Kumar in

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furtherance thereof. She, however, could not dispute the fact that no overt act in the commission of offence has been attributed to the petitioners and that there are no criminal antecedents of the petitioners except for Harjinder Singh mentioned above. It is also not disputed that three petitioners have already undergone an actual custody of about 01 year and 09 months while the petitioner Harjinder Singh in CRM-M-41561-2021 has undergone a custody of 01 year and 03 months approximately. The trial is still at initial stage.

I have learned counsel for the parties and taking into consideration the facts and circumstances of the case, I deem it appropriate to enlarge the petitioners on bail.

Accordingly, the present petition is allowed and the petitioners are admitted to regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of Trial Court/Duty Magistrate, concerned.

It is made clear that the petitioners shall not extent any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

The observation made hereinabove shall not be construed as an expressed on the merits of the case and the Trial Court shall decide the case on the basis of available material.

19.07.2022
Amandeep

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No