

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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Date of Decision: 22.11.2022

(i)

CRM-M-12323-2021 (O&M)

Harvinder Joy

.... Petitioner

Versus

State of Punjab

.... Respondent

(ii)

CRM-M-31238-2021 (O&M)

Amar Singh Kalyan

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. Kawalpreet Singh Virk, Advocate
for the petitioner in CRM-M-12323-2021.

Mr. Rajnikant Upadhyay, Advocate
for the petitioner in CRM-M-31238-2021.

Mr. Jaspal Singh Guru, Asstt. A.G., Punjab
for the respondent-State.

ASHOK KUMAR VERMA, J. (ORAL)

The petitioners have filed the present petitions under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.299 dated 25.10.2020 registered under Sections 307, 341, 323, 506, 148 and 149 of the Indian Penal Code, 1860 and Sections 25 and 29 of the Arms Act, 1959 at Police Station Civil Lines, District Patiala.

The above-said FIR was registered on the statement of Rihan

alleging that on 25.10.2020 he along with his friends returning from Punjab Sports University, Patiala by car bearing registration No.PB11VCB0990. At about 1:00 p.m. when they stopped near NIS Chowk, Patiala to have refreshment, one golden colour Verna car in which 4/5 persons were sitting, one Innova car in which also 4/5 persons were sitting, 02 motorcycles on each of which 02 persons were riding and one Activa being driven by a person arrived there. Rihan identified those persons as Harvinder Joy, Amar Singh Kalyan, Shibbu Gill, Gopi Thakur, Guri Dhaliwal, Mandeep Singh @ Sonu Painter @ Mangu and 4/5 other persons. Harvinder Joy and Amar Singh Kalyan (petitioners) started arguing with Manpreet Singh @ Mani. Rihan and his friend Charanjeet Singh tried to console them but Harvinder Joy raised 'lalkara' and all the assailants intercepted them. Accused-Harvinder Joy took out his pistol and shot two fires towards Charanjeet Singh with an intention to kill him which hits on his left arm and on his left rib. Amar Singh Kalyan also fired a shot from his pistol towards Rihan which hit him on his back. Thereafter, other accused persons dragged Rihan and gave kick blows to Charanjit Singh. When the other friends of Rihan raise hue and cry, Harvinder Joy shot another fire towards the boot of their car and all the assailants fled away from the spot with their weapons.

Learned counsel for the petitioners submit that the petitioners have been falsely implicated in the present case. The complainant and his friends are acting as a gang and one Inderjeet Singh is their gang leader. Petitioner-Harvinder Joy has also got lodged 02 FIRs

against Inderjeet Singh but no action has been taken by the police due to high links of Inderjeet Singh. The present case registered against the petitioners just to create pressure upon them to settle the case registered by petitioner-Harvinder Joy against Inderjeet Singh. Except the statement of the complainant, there is no other evidence which could connect the petitioners with the alleged crime. There is delay of about 09 hours in lodging of the FIR. No case under Section 307 of the IPC is made out against the petitioners. Petitioners-Harvinder Joy and Amar Singh Kalyan are in custody since 12.11.2020 and 22.02.2021, respectively. The trial is likely to take long time. No useful purpose will be served by further detention of the petitioners in custody. Therefore, the petitioners may be released on regular bail.

Per contra, learned State counsel opposed the present petitions in terms of status report dated 03.09.2022 which is already taken on record. Learned State counsel submits that the petitioners have committed a serious offence and both are the main accused. They are also involved in many other cases of similar nature. Therefore, they do not deserve the concession of regular bail.

I have heard learned counsel for the petitioners as well as the learned State counsel and gone through the paper-book.

As per reply filed by the State, on 25.10.2020, the petitioners along with other co-accused armed with deadly weapons reached at the spot. The petitioners started exchanging hot words with Manpreet Singh @ Mani and threatened him to kill. When Charanjit Singh @ Lali told

them there is no enmity between them and why they are quarreling with them then petitioner-Harvinder Joy raised a 'lalkara' to the effect that "encircle them, no one should escape today". The petitioners along with other accused persons encircled complainant party and started manhandling them. Petitioner-Harvinder Joy took out his pistol and fired a shot towards Charanjit Singh @ Laali with an intention to kill him, which hit on his left bicep. Thereafter, petitioner-Amar Singh pointed his pistol towards Rihan and fire a shot which hit him on his back due to which he fell on the ground. After that petitioner-Harvinder Joy fired another shot from his pistol towards Charanjit Singh @ Lali which hit on his left side of lower chest due to this impact, he also fell on the ground. The other co-accused caught hold Rihan from his legs and dragged him and they also gave kick blows on the person of Charanjit Singh @ Lalli. The reason being this incident is that the petitioners have an old rivalry with Inderpreet Singh, friend of complainant-Rihan, regarding which they have instituted cases against each other in Court. As per FSL report dated 31.01.2022, it had been concluded that suspected hold/holes present on exhibit marked S/1 and S/2 contained in parcel 'A' and exhibits marked S/3 and S/4 contained in parcel 'B' caused by projectiles of firearm. Both the petitioners are habitual offenders and indulged in similar criminal activities. Accused-Harvinder Joy is involved in 07 other cases and accused-Amar Singh Kalyan is involved in 03 other cases.

Keeping in view the facts and circumstances of the case, evidence against the petitioners, the fact that the the petitioner are main

accused who fired shots with their respective pistols and also the fact that they are habitual offenders and involved in many other cases of similar nature, I am of the considered view that the petitioners do not deserve the concession of regular bail.

In view of the above, the present petitions are dismissed.

Misc. Application(s) pending, if any, shall stand disposed of accordingly.

22.11.2022
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(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No