

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-10991-2022 (O&M)
Date of Decision:-28.4.2022

Vijay Kumar @ Mogla and another ... Petitioners

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Rahul Vats, Advocate for the petitioners.

Mr. Rajiv Sidhu, DAG, Haryana,
assisted by SI Ranbir Singh.

GURVINDER SINGH GILL, J.(Oral)

1. The petitioners have approached this Court seeking grant of regular bail in respect of a case registered vide FIR No.215 dated 6.10.2020, Police Station Ateli, Tehsil Narnaul, District Mahendergarh, Haryana, under Sections 148, 149, 323, 307 of Indian Penal Code and Section 25 of Arms Act, wherein offence under Section 120-B IPC was added lateron.
2. The FIR in question was lodged at the instance of Sanjeev @ Sanjay, wherein it has been alleged that on 06.10.2020, he alongwith Manoj, Ghanshayam and Jitender were going on car bearing registration No.HR-19H-6595, which was being driven by him. It is alleged that at about 4.05 PM, when he parked

the car near Kanina Chowk, Ateli Mandi, Ghanshayam alighted from the car while he was sitting on the driver seat. It is alleged that at that point of time, a Bolero camper car came from the side of Kanina and hit against their car and resultantly their car struck with a fruit Rehri. Thereafter, three more vehicles came there and 20/25 persons alighted from the said vehicles and started firing at them with an intention to kill them. The said persons attacked their car with sticks, *farsi*, iron rod and sword. It is alleged that one bullet hit on the hand of the complainant. While Jitender ran away, Manoj was hit on his hip with a bullet. He also sustained injuries on his head. The complainant identified some of the accused as Deva, Rahul Lamba, Pawan Lamba, Rahul Mandi, Devi Lal Pahari, Pardeep @ Jurat, Shiv Kumar, Rantej and Sonu Titar, Surani, Gourav and Neeraj.

3. Learned counsel for the petitioners has submitted that the petitioners are nowhere named in the FIR and have been nominated as accused on the basis of alleged disclosure statements made by some other co-accused namely Vikas, Anurag, Sahil, Ankit, Pardeep and Rantej. It has been submitted that such like disclosure statements cannot be said to be substantive evidence and as such, the petitioners deserve the concession of bail particularly when challan already stands presented. Learned counsel has further submitted that, in any case, a large number of co-accused, roughly about 15, have already been granted bail, the petitioner also deserves the same concession particularly on grounds of parity.
4. Opposing the petition, learned State counsel has submitted that since the petitioners have been named by several of the co-accused, their complicity is clearly evident particularly when a bamboo stick was recovered from

petitioner No.1-Vijay Kumar @ Mogla and a country made pistol was recovered at the instance of petitioner No.2-Mohit @ Saka. Learned State counsel has, however, informed that the petitioners as on date have been behind bars since the last about 4 months and are not involved in any other case.

5. I have considered rival submissions addressed before this Court.
6. It is not in dispute that the petitioners are not named in the FIR and have been nominated on the basis of disclosure statements of co-accused, the veracity and admissibility of which would be debatable. A large number of co-accused have already been granted bail. The petitioners have been behind bars for a period of about 4 months, but not even a single PW out of the cited 20 PWs has been examined so far. In these circumstances, further detention of the petitioners will not serve any useful purpose. The petition, as such, is accepted and the petitioners are ordered to be released on regular bail on their furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

28.4.2022

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No