

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

214

CRM M-18979 of 2021

Date of Decision: July 28, 2022

1.	Jaikam	Versus	...Petitioner
	State of Haryana		... Respondent

CRM M-34593 of 2021

2.	Sarjeena	Versus	...Petitioner
	State of Haryana		... Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present : Mr. Gautam Dutt, Mr. Saifuddin Shams, and
Mr. Farhad Kohli, Advocates
for the petitioner in CRM M-18979-2021

Mr. K.B. Raheja, Advocate
for the petitioner in CRM M-34593-2021.

Mr. Anmol Malik, DAG, Haryana.

Mr. K.D. Sehra, Advocate
for the complainant.

VIKAS BAHL, J. (Oral)

This order will dispose of the two first regular bail applications filed under Section 439 of the Code of Criminal Procedure in criminal case FIR No. 148 dated 20.07.2019 under Sections 148, 149, 323, 342, 506, 307 and 302 of IPC registered at Police Station RozkaMeo, District Nuh, Haryana. The first petition i.e., CRM M-18979 of 2021 has been filed by Jaikam and the second petition, i.e., CRM M-34593 of 2021 has been filed by Sarjeena.

Learned counsel for the petitioners have submitted that the petitioner Jaikam has been in custody since 23.07.2019 and Sarjeena has been in custody since 31.07.2019. It is further submitted that both the said petitioners are not involved in any other case. It is argued that in the present case there are 11 accused in all. It is further submitted that the deceased Naveen had suffered one injury on the head with a brick on account of which he died and a perusal of the evidence of the complainant Kundan, who has been examined as PW3 (P-4), would show that the said brick injury has been attributed to co-accused Maksoodan, wife of Akhtar. It is further submitted that there were 5 injured persons even from the side of the petitioners and although, regarding the same, no cross version had been got registered by the police but a private complaint had been given by the co-accused Akhtar with respect to the same but the same was not entertained as he could not sign the same as he was in custody. It is further submitted that as far as the petitioner Jaikam is concerned, he has not been attributed any specific injury with respect to the deceased and as far as petitioner Sarjeena is concerned, although as per the FIR it has been alleged that she had jointly thrown a brick from the roof alongwith Maqsoodan but in the evidence of Kundan (complainant), who has been examined as PW2, it has been stated that petitioner Sarjeena had thrown a brick bat which had hit on the back of Naveen, whereas there is no such injury suffered by the deceased on his back and the brick bat injury on the deceased's head has been

solely attributed to Maqsoodan. Learned counsel for the petitioners have submitted that the material witnesses have been examined and, thus, question of petitioners influencing the said witnesses does not arise. It is submitted that on account of the long custody undergone by the petitioners, they are entitled to the grant of regular bail.

The learned State counsel as well as the complainant have opposed the present regular bail application and have submitted that as far as petitioner Jaikam is concerned, he had dragged the deceased into Akhtar's house and thereafter, all the accused persons had given injuries to the said Naveen. It is submitted that Sarjeena had also thrown a brick bat from the roof top which had hit on the back of Naveen.

This Court has heard learned counsel for the parties and perused the records.

The petitioner Jaikam is in custody since 23.07.2019 and the petitioner Sarjeena is in custody since 31.07.2019 and since out of 25 witnesses, only 15 witnesses have been examined, thus, the trial is likely to take time. Both the petitioners are not involved in any other case.

The deceased has suffered one injury on the head inflicted with a brick bat, which has been attributed to Maqsoodan, as is clear from the evidence of PW3 Kundan (appended as P-4 alongwith CRM M 18979 of 2021). The petitioner Jaikam has not been attributed any specific injury with respect to the deceased and

the petitioner Sarjeena, as per the evidence of PW3, has been attributed only one brick bat injury which is stated to have been inflicted on the back of Naveen but there was no injury suffered by Naveen on his back (as per the PMR). It is the case of the petitioners that there are five injured from the side of the petitioners and although no cross version had been registered by the police but a private complaint had been filed by co-accused Akhtar, although the same was not entertained on account of fact that he could not sign the same as he was in custody.

Keeping in view the facts and circumstances, moreso, the custody period undergone by the petitioners, the present petitions are allowed. The petitioners are ordered to be released on bail on their furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate and subject to their not being required in any other case.

However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

It is made clear that in case, any act is done by the petitioners to threaten the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioners.

July 28, 2022
amit rana

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking : Yes/No
Whether reportable : Yes/No