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

Date of decision-23.03.2022

1. CRM-M-16468-2020

Rinku

....Petitioner

Vs.

State of Haryana

...Respondent

2. CRM-M-22394-2020

Amit @ Lattu

....Petitioner

Vs.

State of Haryana

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Munish Behl, Advocate for
Mr. Pankaj Bali, Advocate for the petitioner
in CRM-M-16468-2020.

Mr. Parminder Singh, Advocate for the petitioner
in CRM-M-22394-2020.

Mr. Bhupender Singh, DAG, Haryana.

MANOJ BAJAJ, J.

Petitioners have filed these separate petitions under Section 439 Cr.P.C for grant of regular bail pending trial in case FIR No.919 dated 31.08.2019 under Sections 302, 34 and 120-B Indian Penal Code, 1860 PC, Sections 25, 54 and 59 Arms Act, 1959 and Sections 3(2)(v) Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered at Police Station Sadar, Karnal, who were arrested on 09.09.2019.

The contents of the FIR as noticed by the Sessions Judge, Karnal in his order dated 17.06.2020 (in CRM-M-16468-2020) are as under:-

“Brief facts of the prosecution case are that on 31.08.2019 an information was received that a gun shot has been fired on a youth. On this information, Inspector/SHO P/SI Virender along with ASI Ajaib Singh, HC Mukesh Kumar

started for the village Staundi in a Government vehicle being driven by EASI Hardeep Singh. Then another information was received that the injured has been brought to Civil Hospital, Karnal. Thereafter, Inspector/SHO Virender Singh along with other police officials reached at Civil Hospital, Karnal where the police party came to know that one Sandeep son of Pala Ram, resident of village Staundi was brought dead. At that time, Parveen Kumar son of Pala Ram, brother of deceased Sandeep was also present there and he recorded his statement to Inspector/SHO Virender Singh to the effect that he is resident of village Staundi. He is a labourer. They are four brothers and one sister. On 31.08.2019 at about 8.00 AM, he along with his younger brother Sandeep were sitting at Gharaunda Bus Stand in search of their work. In the meanwhile, one boy who has worn checkdar shirt and Jeans pant came there on a motor cycle from the side of Bijna and took Sandeep brother of the complainant on his motor cycle towards the school. At the same time, the complainant came to know that the boy who had taken his brother Sandeep on his motor cycle has fired a gun shot on Sandeep near the Johar in front of the house of Balwan Pandit with intention to kill Sandeep. The friends of Sandeep had taken Sandeep to Civil Hospital, Karnal on motor cycle and the boy who had fired on Sandeep, had fled away towards Karnal side. Thereafter, complainant also reached at Civil Hospital, Karnal and saw that there was gun shot injury on the foot of his brother Sandeep below the chest on the right side and his brother had expired. He can identify that boy who had fired on Sandeep, if he produced before the complainant. So, it is requested that legal action may kindly be taken against the culprits. On this statement, formal FIR no.919 dated 31.08.2019 under section 302 IPC and 25.54.59 of Arms Act was registered in Police Station Sadar, Karnal.”

Learned counsel for the petitioners have argued that as per prosecution itself, complainant along with his brother, namely, Sandeep were waiting at bus stop when an unknown person came on two wheeler and his brother-Sandeep went with him. After some time, complainant came to learn that his brother has been shot by the said person in front of the house of the Balwan Pandit and succumbed to said gunshot injury in the hospital. Learned counsel for the petitioners have argued that case of the prosecution is based upon circumstantial evidence and though the alleged occurrence took place in

the morning, but strangely the occurrence was not witnessed by anyone particularly when the place, where the gunshot was fired, is in front of three houses. In this regard, they have produced the site plan prepared by the Investigating officer. It is pointed out that the gunshot firing is attributed to the co-accused-Jatinder Singh, whereas the petitioners have been implicated on the basis of criminal conspiracy. It is submitted that trial is progressing at a slow pace as only two prosecution witness has been examined so far, therefore, the petitioners be released on bail. They prayed for bail

On the other hand, learned State counsel assisted by SI Rakesh Kumar, while opposing the prayer has argued that the motive is attributed to Rinku and in this regard prosecution has relied upon his disclosure statement/confession, who stated that he had fight with Sandeep few days back. However, it is not disputed by learned State counsel that as per the final report, the weapon of the offence was recovered from accused-Jatinder Singh. He on instructions further states that the case is now fixed for 29.03.2022 for recording the prosecution evidence before the trial Court.

After hearing learned counsel for the parties, considering the above background, custody of the petitioners as well as nature of evidence relied upon by the prosecution, this Court is of the opinion that further detention of the petitioners may not serve any useful purpose, who are presently confined in judicial custody after their arrest on 09.09.2019. Further, the material witnesses are either complainant or police officials and there does not seem to be any possibility of their being won over.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioners be released on regular bail subject to their furnishing requisite bail bonds/surety bonds to the satisfaction

of the trial Court/Duty Magistrate concerned.

The petitions are allowed.

23.03.2022

vanita

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No