

CRM-M-22805-2022 and
CRM-M-23378-2022

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(223)

1. CRM-M-22805-2022
PoonamPetitioner

Versus

State of HaryanaRespondent

2. CRM-M-23378-2022
AshishPetitioner

Versus

State of HaryanaRespondent

Date of decision: - 03.08.2022

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Sandeep Gahlawat, Advocate
for the petitioner in CRM-M-22805-2022.

Mr. Mayank Gupta, Advocate
for the petitioner in CRM-M-23378-2022.

Mr. Munish Sharma, AAG, Haryana.

Mr. Mohit Sadana, Advocate, for the complainant.

VIKAS BAHL, J. (ORAL)

This order of mine will dispose of two petitions. The first petition has been filed by Poonam i.e., CRM-M-22805-2022 and the second petition has been filed by Ashish i.e., CRM-M-23378-2022.

Both the said petitions have been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioners in FIR No.202 dated

19.08.2021, registered under Sections 120-B, 148, 149, 302, 452, 506 IPC (during investigation Section 452 IPC replaced by Section 449 IPC added later on), at Police Station Pillu Khera, District Jind.

Learned counsel for both the petitioners have jointly submitted that in the present case, petitioner Poonam is in custody since 08.10.2021 and petitioner Ashish is in custody since 01.09.2021 and there are total 26 witnesses, none of whom have been examined, thus, the trial is likely to take time. It is further submitted that the alleged occurrence took place on 17.08.2021/18.08.2021 and the wife of the deceased Kanta, on 18.08.2021, had given a statement that her husband, who had been injured on the intervening night would get the statement recorded in this regard. On 18.08.2021, the husband of the complainant died and on 19.08.2021, an FIR was registered, in which, the complainant (wife of deceased) had specifically stated that Vikas @ Machher, Vishal, Rohit, Sandeep and Sagar had gone to the roof of the house of the complainant where the deceased was present and were having sharp edged weapons and had caused grievous injuries to the husband of the complainant i.e., Kamal and on account of the said injuries, the said Kamal died. It was further alleged by the complainant that when she had raised alarm and had gone to seek help, then, from the roof of the house, she saw that other persons including Poonam and 10-12 other persons were also there downstairs and had all surrounded the said house. On the basis of the disclosure statement of Vikas @ Machher, name of petitioner Ashish was also mentioned as one of those persons, who was standing downstairs

along with Poonam and other persons. Learned counsel for the petitioners have further submitted that neither any injury has been attributed to both the petitioners nor any recovery has been effected from them. It is also submitted that no overt-act has been committed by both the petitioners. It is argued that co-accused of the petitioners, namely, Chand Ram, has already been granted the concession of regular bail by this Court, vide order dated 02.05.2022 passed in CRM-M-11436-2022.

Learned State counsel as well as learned counsel appearing for the complainant have opposed the present petitions for regular bail and have submitted that both the petitioners were also standing downstairs, along with other persons and were guarding the area so as to ensure that nobody comes to help the deceased, who was being beaten up by five persons, who had entered their house. It is further submitted that petitioner Poonam is the mother of Vikas @ Machher and the said Poonam had a motive to get the deceased eliminated. It is also pointed out that petitioner Poonam is involved in one more case i.e., FIR No.198 dated 12.08.2021, under Sections 148, 149, 323, 427, 452 and 506 IPC, which had been got registered by Pawan, who is the brother of deceased Kamal.

Learned counsel for the petitioner Poonam, in rebuttal, has relied upon the judgment of Hon'ble Supreme Court in “**Maulana Mohd. Amir Rashadi Vs. State of U.P. and another**”, reported as 2012 (2) SCC 382 to contend that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the

petitioner cannot be rejected solely on the ground that the petitioner is involved in other cases. The relevant portion of the said judgment is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

This Court has heard learned counsel for the parties and gone through the paper-book.

Petitioner Poonam is a lady and is in custody since 08.10.2021 and petitioner Ashish is in custody since 01.09.2021 and there are 26 witnesses, none of whom have been examined, thus, the trial is likely to take time. The petitioners have not been attributed any injury, nor any recovery has been effected from them. As per the FIR, the injuries have been attributed to co-accused of the petitioners, namely, Vikas @ Machher, Vishal, Rohit, Sandeep and Sagar, who had gone the roof of the complainant's house where the deceased was present and as per the prosecution case, the allegation against the present petitioners was that they, along with a large number of other persons, were standing downstairs and had encircled the house so as to prevent any help to the deceased or their family members. Moreover, co-accused of the petitioners, namely, Chand Ram, has already been granted the concession of regular bail by this Court, vide order dated 02.05.2022 passed in CRM-M-11436-2022.

Keeping in view the above-said facts and circumstances, the present petitions are allowed and 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 them 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 cases which are only for the purpose of adjudicating the present bail petitions.

It is made clear that in case, any act is done by the petitioners to threaten or influence 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.

August 03, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	No