

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-23252-2022(O&M)

Date of Decision: 01.06.2022

Ashok Kumar and anr.

.....Petitioners

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Kunal Dawar, Advocate
for the petitioners.

Mr. Vikrant Pamboo, DAG, Haryana.

JASJIT SINGH BEDI, J.(Oral)

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioners in case FIR No.141 dated 10.10.2020, registered under Sections 147, 148, 323, 506 IPC, 1860 and Sections 302 and 201 IPC, 1860 added later on with Police Station Bhupani, District Faridabad.

The brief facts of the case are that one Sudesh-complainant got recorded her statement to the effect that her younger son Anish had gone out with his friend Sandeep on the night intervening 08/09.10.2020 and when he reached at New Railway Line, Uttam Colony, 5/6 persons one of whom was Mukesh alias Komal assaulted her son. As per her version, Sandeep, the friend of her son Anish, informed her about the occurrence, pursuant to which she got registered the present FIR.

The learned counsel for the petitioners submits that the petitioners were not named in the FIR but have been named in the disclosure statement of his co-accused Mukesh alias Komal. He further

contends that the three main witnesses to the occurrence namely Sudesh-complainant (not eye-witness), Dharmender and Sandeep (eye-witness) have been examined as PW1, PW3 and PW-2. They have not supported the case of the prosecution and therefore, the petitioners deserve the concession of regular bail.

On the other hand, the learned State counsel vehemently opposes the bail application and contends that the petitioners do not deserve the concession of regular bail because they are named by the main accused Mukesh alias Komal. He, however, does not dispute the factual position that the three material witnesses examined out of 25 witnesses stand examined, and they have not supported the prosecution case.

I have heard the rival contentions of both the parties.

Admittedly, the co-accused of the petitioner, namely, Mahesh alias Fajjar has been granted the concession of bail vide order dated 12.05.2022 passed by this Court. The petitioners are similarly situated.

The petitioners have been in custody since 12.10.2020. As many as 25 witnesses were cited by the prosecution out of which only 05 have been examined till date. The deposition of the three material witnesses has been placed on record as Annexures P-2, P-4 and P-3. None of these witnesses have supported the prosecution case. The Hon'ble Supreme Court in **“Dr. Gokarakonda Naga Saibaba Versus State of Maharashtra, 2016(2) RCR (Criminal) 675** and this Court in **“Devender Singh @ Devender Chhabra @ Tintu Versus State of Punjab, CRM-M-27957-2015 decided on 22.08.2016** has held that grant of bail can be considered, where witnesses stand examined.

Keeping in view the period of custody as also the fact that the material witnesses have turned hostile no useful purpose would be served

by keeping the petitioners incarcerated, moreso when the trial is not likely to be concluded in the near future.

Thus, without advertng to the merits of the case lest it prejudices either side, I deem it appropriate to enlarge the petitioners on regular bail.

Accordingly, the present petition is allowed. The petitioners, namely Ashok Kumr and Ashwani are ordered to be released on bail, subject to their furnishing adequate bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate, concerned.

Nothing expressed hereinabove would be construed to be an expression of any opinion on the merits of the case.

01.06.2022

sukhpreet

(JASJIT SINGH BEDI)

JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No