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

**CRM-M-26909-2022
Date of Decision: 25.07.2022**

Rajesh Nain @ Raju

..... Petitioner

Versus

State of Haryana

..... Respondent

CRM-M-28408-2022

Akash alias Golu

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Sandeep K. Sharma, Advocate,
for the petitioner in CRM-M-26909-2022.

Mr. Devender Kumar, Advocate,
for the petitioner in CRM-M-28408-2022.

Mr. Naveen S. Panwar, DAG, Haryana.

JASGURPREET SINGH PURI, J. (ORAL)

Both the petitions have been filed under Section 439 of the Code of Criminal Procedure and are being taken up together for final disposal with the consent of the learned counsel for the petitioners, since both the petitions arise out of the same FIR.

Both the petitions have been filed by the petitioners for grant of regular bail in case bearing FIR No.0312 dated 22.11.2018, under Sections 148, 149, 216, 302 & 120-B of the IPC and Sections 25, 54 and 59 of the Arms Act, 1959, registered at Police Station Civil Lines, Rohtak, District

Rohtak.

The petitioner, namely, Rajesh Nain @ Raju in CRM-M-26909-2022 is stated to be in custody from 28.12.2019, which is more than 2½ years and the petitioner, namely, Akash @ Golu in CRM-M-28408-2022 is stated to be in custody from 30.04.2019 which is also more than 3 years. Learned counsel for the petitioners in both the cases have submitted that out of the total 41 witnesses, 15 have already been examined including all the material witnesses including the eye-witnesses. They further submitted that so far as the role attributable to the petitioner-Rajesh Nain @ Raju is concerned, he was specifically named in the FIR but as per the prosecution, the role attributable to him was only that he was carrying a *Danda* and also there was a recovery of *Danda* from him. So far as the role of the other petitioner-Akash @ Golu is concerned, he was not named in the FIR but as per the prosecution, there was a recovery of country made pistol from him along with cartridges. They also submitted that both the petitioners are not involved in any other case and at the time of trial both the eye-witnesses, namely, Amit (Complainant) and Praveen have not supported the prosecution version and they were declared hostile. The learned counsel for the petitioners further submitted that as per the FIR which was lodged on the basis of the complainant-Amit, who is the brother of the deceased-Lokesh that he was also present at the spot but during the course of trial, he deposed that he came later on and he does not know the persons who were present in the Court and did not identify them and had specifically stated that the accused have not committed the murder of his brother. The other eye witness, namely, Pradeep has also not supported the prosecution case.

Learned counsel for the petitioners further submitted that in view of the aforesaid facts and circumstances whereby the eye-witnesses have not supported the prosecution case and they have already suffered incarceration for more than 2½ years, therefore, they may be considered for the grant of regular bail.

On the other hand, Mr. Naveen S. Panwar, learned DAG, Haryana has submitted that it is correct that the petitioner, namely, Rajesh Nain @ Raju is in custody since 28.01.2019 and the petitioner, namely, Akash @ Golu in CRM-M-28408-2022 is in custody since 30.04.2019. Out of 41 cited witnesses, 15 have already been examined. He further submitted that it is also correct that both the eye-witnesses have not supported the prosecution witnesses and have been declared hostile. He has, however, opposed the grant of regular bail to the petitioners on the ground that the matter is serious in nature which resulted in the death of the brother of the complainant.

I have heard the learned counsel for the parties.

The custody of both the petitioners is not in dispute. It is also not in dispute that both the material witnesses, who are stated to be eye-witnesses have not supported the prosecution version at the time of trial and were declared hostile. During the course of arguments, the learned counsel for the parties have also referred to Annexures P-10, P-11 & P-12 whereby the other co-accused have been granted bail by this Court. It is not the case of the State nor it has been argued by the learned State counsel that in case the petitioners are released on bail then they may abscond or flee from justice or may influence any witness. Therefore, in view of the aforesaid

facts and circumstances of the case, this Court deems it fit and proper to grant bail to both the petitioners.

Consequently, both the petitions are allowed and the petitioners, namely, Rajesh Nain @ Raju and Akash @ Golu are ordered to be released on bail on furnishing their bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned, if not required in any other case.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

25.07.2022

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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| 1. Whether speaking/reasoned: | Yes |
| 2. Whether reportable: | Yes/No |