

220 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-27078 of 2022(O&M)

Date of Decision: 16.09.2022

Safak & Anr.

...**Petitioners**

Versus

State of Haryana

...**Respondent**

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Aditya Sanghi, Advocate
For the petitioners.**

Mr. Vishal Kashyap. AAG Haryana.

KARAMJIT SINGH, J.

The present petition has been filed by the petitioners under Section 439 Cr.P.C. seeking regular bail in case having FIR No. 502 dated 05.12.2019, registered under Sections 302, 34 ad 120-B IPC, Police Station Rania, District Sirsa.

The counsel for the petitioners submits that the petitioners were not involved in the murder of Lakhbir Singh, in any manner. That the petitioners were not named in the FIR and nominated as accused on the basis of alleged disclosure made by co-accused Shankar, as per which at the time of the commission of the alleged murder of Lakhbir Singh, petitioner No.1 Safak armed with iron rod (saria) and petitioner No.2 Umesh Kumar (empty handed) were standing outside the door of the room wherein the alleged murder had taken place. The counsel for the petitioner further submits that no injury has been attributed to the petitioners who are in

custody for the last more than 02 years and 09 months and are having no other criminal history. The counsel for the petitioner further submits that the trial is going on at very slow pace and it will take considerable time for the trial to conclude and as such no purpose is going to be served by keeping the petitioners behind the bars for any longer period.

The present petition is contested by the State counsel who submits that both the petitioners actively participated in the murder of Lakhbir Singh and both of them remained present outside the room wherein Lakhbir Singh was murdered by co-accused Shankar and Radhey Sham. The State counsel further submits that at that time petitioner Safak was holding iron rod(saria). However, the State counsel has not refuted the fact that the petitioners who were not named in the FIR are in custody for the last more than 02 years and 09 months and are not involved in any other criminal case.

I have considered the submissions made by counsel for the parties.

Admittedly, the petitioners were not named in the FIR and the only allegations against them is that when main accused Shankar and Radhey Sham went inside the room and committed murder of Lakhbir Singh, petitioner No.1 armed with iron rod (saria) and petitioner No.2 (empty handed) kept on guarding the said room while standing outside it. There are no allegations against the petitioners that they also attacked Lakhbir Singh and caused injuries to him at the time of occurrence. Nothing was recovered from the possession of petitioner No.2 Umesh Kumar while iron rod (saria) was recovered from possession of petitioner No.1 during the investigation. Both the petitioners are in custody for the last more than 02

years and 09 months. After investigation police has presented the challan but it will take time for the trial to terminate. The exact complicity of the petitioners in the murder of Lakhbir Singh would be unfolded during the trial. So no purpose is going to be served by keeping the petitioners in custody for any longer period.

In view of the above, without expressing any opinion on the merits of the case, instant petition is allowed. The petitioners are ordered to be released on regular bail during the trial on his furnishing bail bonds and surety bonds to the satisfaction of Chief Judicial Magistrate/ Duty Magistrate concerned.

16.09.2022

Jiten

**(KARAMJIT SINGH)
JUDGE****Whether speaking/reasoned : Yes/No****Whether reportable : Yes/No**