

**CRM-M-30831-2021 and
CRM-M-32221-2021**

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**206
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRM-M-30831-2021
Date of Decision: 05.08.2022**

**(I)
Ankur**

....Petitioner(s)

Versus

State of Haryana

.....Respondent(s)

CRM-M-32221-2021

**(II)
Joginder**

....Petitioner(s)

Versus

State of Haryana

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

**Present: Mr. R.S. Rai, Senior Advocate assisted by
Mr. Sushil Jain, Advocate and
Mr. Karan Pathak, Advocate,
for the petitioner in CRM-M-30831-2021.**

**Ms. Gurmeet Kaur, Advocate for
Mr. Rajesh Duhan, Advocate,
for the petitioner in CRM-M-32221-2021.**

Mr. Naveen Singh Panwar, DAG, Haryana.

Mr.K.D. Sehra, Advocate, for the complainant.

JASGURPREET SINGH PURI, J. (Oral)

Both the petitions are taken up together for final disposal with the consent of learned counsel for the parties since they arise from the same FIR.

Both the petitions have been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioners in FIR No. 42 dated 19.01.2018, under Sections 148,149, 302, 506, 216, 120-B IPC, registered at Police Station Samalakha, District Panipat.

The learned Senior Counsel appearing on behalf of petitioner Ankur in CRM-M-30831-2021 has submitted that the petitioner is in custody from 19.01.2018 which is about 4 years and 7 months and out of 38 cited witnesses 9 have already been examined including the complainant/eye witness who is the wife of the deceased. He further submitted that the allegations against the petitioner and the other co-accused were that when the complainant and her deceased husband were going on a motorcycle to attend the Court work, then a number of persons had come and attacked them which caused the death of the husband of the complainant. Learned Senior Counsel further submitted that the petitioner has been falsely implicated in the present case particularly in view of the fact that the deceased himself was a chronic litigant and was involved in a number of cases including under Sections 302 and 325 IPC and in view of the long custody of the petitioner which is 4 years and 7 months, the petitioner may be considered for the grant of regular bail. He further submitted that there are total 12 accused who are facing trial out of which 10 accused were challaned by the police and two were summoned under Section 319 of the

Code of Criminal Procedure and 8 of the co-accused have already been released on regular bail and 2 have been released on anticipatory bail. Learned Senior Counsel further submitted that in view of the aforesaid position, the petitioner may be considered for the grant of regular bail.

Learned counsel appearing on behalf of the petitioner Joginder in CRM-M-32221-2021 has submitted that so far as the petitioner Joginder is concerned he is also at parity with the other co-accused who have been granted bail by this Court and he is in custody for 4 years and 7 months. Both the learned counsel have also submitted that no recovery is to be effected from the petitioner and since only 9 witnesses have been examined out of 38 witnesses, the trial of the case may take much more time and therefore, considering the long custody of the petitioners, they may be considered for the grant of regular bail.

On the other hand, Mr. Naveen Singh Panwar, learned Deputy Advocate General, Haryana has submitted that so far as the custody of the petitioners is concerned, the same is correct and it is also corrected that 9 witnesses have been examined till date including the complainant who was the only eye witness. He further submitted that so far as the argument raised by the learned counsels for the petitioners that the petitioners are at parity with the other co-accused who have been granted bail is concerned, although one of the petitioner namely Joginder is at parity with the other co-accused and so far as the petitioner namely Ankur is concerned, he is not at parity with the other co-accused in view of the fact that he was the main accused and in the FIR itself it has been stated by the complainant that they had a dispute with Ankur.

However, replying to the arguments raised by the learned State counsel it was argued by the learned Senior Counsel that the other two co-accused namely, Sandeep and Rohit are also the brothers of the petitioner and therefore, it cannot be said that the petitioner is not at parity with the aforesaid co-accused namely Sandeep who has been granted bail by this Court vide Annexure P-7 vide order dated 15.07.2021. He further submitted that be that as it may, considering the long custody of the petitioner, he may be considered for the grant of regular bail.

I have heard the learned counsel for the parties.

Both the petitioners are in custody for about 4 years and 7 months. All the other co-accused have already been released on bail in the present case. Only 9 witnesses out of 38 witnesses have been examined till date. The material witness who is the complainant herself has also been examined. Since the trial of the case may take long time, the custody of both the petitioners would therefore be a relevant factor to consider the grant of bail. It has also been pointed out by the learned Senior Counsel that the deceased was also a chronic litigant and was a practicing Advocate. It is not a case of the learned State counsel that in case the present two petitioners are released on bail, then they may flee from justice or may influence any witness particularly in view of the fact that the only eye witness who is the complainant has already been examined.

In view of the aforesaid facts and circumstances and considering the long custody of the petitioners, both the petitioners deserve the concession of regular bail.

Consequently, both the petitions are allowed. Both the

petitioners shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

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

05.08.2022
rakesh

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking	:	Yes/No
Whether reportable	:	Yes/No