

I. CRM-M-32460-2021
Date of Decision : April 01, 2022

II. CRM-M-37763-2021

III. CRM-M-49901-2021

IV. CRM-M-44130-2021

V. CRR-151-2022

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Madan Sandhu, Advocate
(in CRM-M-32460-2021)
Mr. Sachin Kaushik, Advocate
(in CRM-M-37763-2021)
Mr. Akashdeep Singh, Advocate
(in CRM-M-49901-2021)
Mr. Yash @ Aman, Advocate
(in CRM-M-41130-2021)
Mr. Lalit Kumar, Advocate
(in CRR-151-2022)
for the petitioner(s).

Mr. Deepak Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J.

The above mentioned petitions have been filed for grant of regular bail to the petitioners in FIR No.64 dated 16.2.2021 under Sections 148/302/120-B/449/149 IPC and Section 25 of the Arms Act, registered at Police Station, Urban Estate Rohtak, District Rohtak.

Counsel for the petitioner(s) submit that as per the allegations in the FIR, registered at the instance of Pushpinder, it is stated that he is doing a private business and his uncle's son Ravi along with his friend Rahul had gone to Chandigarh two days ago. Later, he received an information that Ravi has been murdered at Sector 6 road. On receiving the information, he reached at the hotel where he met Naveen, who told that Ravi along with friend Rahul had come to the hotel about 9.00 p.m. and around 12.00 a.m. Rahul had went out but Ravi stayed in Room No.206. Naveen was sleeping in his cabin. In the meantime, three boys came to the hotel. One boy pointed pistol towards Naveen and two boys went inside and brought Ravi out from the hotel. Thereafter, Naveen heard notice of fire arm outside and when he came out he saw the body of Ravi lying in the center of the road as he was murdered by some unknown persons.

Counsel for petitioner Rohit @ Vicky in CRM-32460-2021 has argued that the petitioner is in custody for the last 01 year and 01 month and is involved in one more FIR No.48 under Section 307 IPC, in which is on bail.

Counsel for petitioner Amit in CRM-37763-2021 has argued that the petitioner is in custody for the last 01 years, 01 month and 12 days and he is on bail in one FIR No.729.

Counsel for petitioner Pawan in CRM-M-49901-2021 has argued that he is in custody for the last 01 year and 01 month and he is not involved in any other case.

It is stated that Pawan is the father of co-accused Naveen and Deepanshu @ Divya. Counsel for the petitioner submit that Deepanshu @ Divya is accused in FIR No.48, wherein deceased Ravi was an injured witness. Counsel for the petitioner submits that 15 days prior to the occurrence a public notice was issued in the newspaper 'Bhasker' that his son Deepanshu @ Divya was out of his control and, therefore, he has disowned him. Counsel further submits that Naveen, son of petitioner Pawan, has already been granted the concession of regular bail vide order dated 29.7.2021 in CRM-M-24339-2021.

Counsel for the petitioner(s) further submits that the police during the investigation arrested the accused persons and recorded their successive disclosure statements, including that of the petitioner. Counsel for the petitioner also submits that it has come in the disclosure of the petitioner that he, along with his son Naveen, helped Deepanshu @ Divya in effecting compromise in FIR No.48, wherein deceased Ravi was a witness. Counsel for the petitioner also submits that except this, there is no other evidence against the petitioner.

Counsel for petitioner Yash @ Aman in CRM-M-44130-2021 submits that as per the version of the prosecution accused Naveen intimated petitioner Yash @ Aman about the movement of Ravi, who was staying in the hostel and the petitioner, along with co-accused Amit, had dropped the other accused at the hotel where they committed the murder of Ravi. Counsel further submits that there is no evidence that

the petitioner had any meeting of mind with Deepanshu @ Divya, the main accused or they were having any knowledge that he is going to commit murder of Ravi in the hotel. Counsel for the petitioner further submits that the petitioner was nominated on the disclosure of Naveen, who has already been released on bail.

Prayer in the petition, i.e. CRR-151-20 filed by Jay Pawadiya @ Mota is for setting aside the order dated 3.9.2021 vide which the regular bail to the petitioner in the present FIR was denied by the Juvenile Justice Board, Rohtak as well as his appeal was dismissed by the Additional Sessions Judge, Rohtak.

Counsel for the petitioner has argued that the petitioner was arrested on 26.2.2021 and as per Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 he has a right of bail and such right can be denied only where appear very reasonable grounds to believe that his release is rightly to bring him in association of non-criminal or is likely to expose him to moral, physical or psychological danger or that his release may defeat the ends of justice.

Counsel for the petitioner submits that even the petitioner has been impleaded with the aid of Sections 120-A and 120-B IPC.

Separate replies by way of affidavit of the Investigating Officer are on record after verifying the fact of the FIR, the role of each petitioner is stated in the affidavits.

It is stated that petitioner Rohit @ Vicky is also a co-accused with main accused Deepanshu @ Divya in FIR No.148 registered under Sections 307 and 452 IPC, Police Station Shivaji Colony, Rohtak, i.e. the same Police Station where the present FIR has

been registered and as the deceased Ravi was the witness in the said FIR and had not agreed to compromise the case with accused Deepanshu @ Divya, petitioner Rohit @ Vicky and juvenile Jay Pawadiya @ Mota, played conspiracy with each other and committed his murder

It is stated in the FIR that the petitioner has actively participated in hatching a conspiracy of murder of Ravi and this fact has come in disclosure of petitioner Ravi that he is having friendship with Sangam and Deepanshu @ Divya, who had a quarrel with Ravi and later on, they had gone to the house of one Vishwas and fired shot and broken the articles and in this regard, Vishwas has registered the aforesaid FIR No.48. It is also stated in the disclosure that Deepanshu @ Divya and his friends were there to compromise but Ravi was not accepting and, therefore, by doing *recce*, he was murdered.

A reference is also made to the disclosure of Deepanshu @ Divya, which is also on similar footing that Ravi, the witness, who was sentenced in FIR No.48 was not compromising the case and, therefore, he went to the hotel. When Ravi tried to fled away, then co-accused Gokul, Sourav and Jay Pawadiya @ Mota and one Yash Verma caught hold of him and Sangam with a country made pistol fired on his head and Deepanshu @ Divya fired two shots, and, thereafter, they fled away in a car.

Learned State counsel with regard to the role of petitioner Amit has stated that he is also part of the conspiracy as he has done the *recce* and when deceased Ravi was staying in the hotel with Naveen, he has passed the information to the petitioner, who further gave to the co-accused.

Reference is made to the disclosure of the petitioner as well as that of Naveen. As per the disclosure of Naveen he is friend with petitioner Amit, who told that a quarrel has taken place between his friend Deepanshu @ Divya and his other friends with Ravi etc. On 15.2.2021, Ravi stayed in the hotel and, thereafter, he passed on this information to Amit, who further passed it on to other accused.

With regard to the role of petitioner Pawan, it is stated that he is father of main accused Deepanshu @ Divya and Naveen and has played an active role while trying to settle the dispute and effected a compromise with Ravi in FIR No.48 and when Ravi did not agree, he also hatched a conspiracy with the other accused.

Reference is made to the disclosure of petitioner that he along with his son Deepanshu @ Divya and Naveen had conspired to kill Ravi.

With regard to the role of petitioner Yash @ Aman, it is stated that he was also a conspirator in committing the murder of Ravi. It is stated that the petitioner along with Amit has dropped the accused Deepanshu @ Divya, Sangam, Yash Verma, Mukul and Jay Pawadiya @ Motu and Saurav at hotel Black Berry and, thereafter, they returned back and, later on, as per the planned conspiracy, Ravi was killed by the other accused.

Reference is made to the disclosure of the petitioner and other accused to submit that the petitioner was in fact a conspirator with other accused.

With regard to Jay Pawadiya @ Motu it is stated that he is actively participating in commission of offence as it has come in the

investigation that he caught hold of Ravi when he tried to run away and accused Sangam and Deepanshu @ Divya fired upon him killing him at the spot.

After hearing learned counsel for the parties, I find no merit in the petition filed by Rohit @ Vicky as he was one of the accused in FIR No.48 where deceased Ravi was a witness and there is a motive attributed to the petitioner that when Ravi refused to compromise in the said FIR, the petitioner, along with Deepanshu @ Divya and other accused has committed the murder of Ravi.

Accordingly, this petition is dismissed.

So far as the case of petitioner-Amit and Yash @ Aman is concerned, the allegation against them are that co-accused Naveen passed information to him that Ravi is staying in a hotel and, thereafter, both of them dropped the other accused outside the hotel where they committed the offence.

It is not the case of the prosecution that after the petitioner dropped accused Deepanshu @ Divya and others at the hotel, they kept waiting for them to take them back to show that they were actively participated in the criminal conspiracy and, therefore, it will be matter of trial that whether they have meeting of mind with the other accused, who were conspired to kill Ravi as at this stage, it cannot be held that they were having the knowledge of intention of Deepanshu @ Divya and others. Therefore, both of them are entitled for bail.

So far as the allegations against Pawan is concerned, he is father of Naveen and main accused Deepanshu @ Divya, who has committed the murder of Ravi, along with Sangam by firing upon

deceased Ravi.

The only allegation against the petitioner, as per the disclosure is that he along with his son has tried to effect the compromise with deceased Ravi and when he refused, all of them conspired to kill him. However, except the disclosure statement of the petitioner, nothing has come on record during the investigation that he actively participated in the commission of crime, specially when he has disowned Deepanshu @ Divya by giving a public notice in the newspaper that his son Deepanshu @ Divya is out of his control and he disown him.

In view of the same, even Pawan is entitled for grant of concession of regular bail.

So far as petitioner Jay Pawadiya @ Mota is concerned though he is 17 years of age, however, he is also an accused in FIR No.48 and, therefore, the motive is attributed to him as well for committing the murder of Ravi who was a witness in FIR No.48 and as per the situation and disclosure of other accused, petitioner Jay Pawadiya @ Mota was actively participated and he has also caught hold of deceased Ravi when he tried to run away and Sangam and Deepanshu @ Divya fired upon him by committing his murder.

Therefore, considering the allegation of the prosecution against the petitioner, who with a motive committed the offence of murder of Ravi with the co-accused, there is every possibility that the petitioner may abscond from the Court proceedings or may involve in other serious cases as he is already involved in two FIRs. Moreover, both the Courts below have rightly recorded a finding after going

through the social investigation report that there is a possibility that the petitioner may come in contact with the persons having influence on him to indulge into criminal activity which may expose him to morale, physical and psychological danger. Therefore, there is no ground to grant concession of bail to petitioner Jay Pawadiya @ Mota as there are reasons to believe that release of the petitioner on bail is likely to bring him in association with known criminal persons.

Therefore, the revision filed by Jay Pawadiya @ Mota is dismissed.

Accordingly, petitions filed by **Rohit @ Vicky** and the revision filed by **Jay Pawadiya @ Mota** are dismissed and the petitions filed by **Amit, Yash @ Aman and Pawan** are allowed and they are ordered to be released on bail, subject to their furnishing bail/surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate, concerned.

(ARVIND SINGH SANGWAN)
JUDGE

April 01, 2022
satish

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