

I. CRM-M-31730-2020
Date of Decision : March 29, 2022

II. CRM-M-42335-2020

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Mr. Joginder Pal Ratra, DAG, Haryana.

The above mentioned two petitions have been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioners, namely, Aman Malik @ Nakul and Rajan @ Raja in FIR No.122 dated 6.5.2020, under Section 379-B(2) IPC and Section 25 of the Arms Act,1959. registered at Police Station Division-B, District Commissionerate Amritsar.

Counsel for the petitioner(s) submits that as per the

allegations in the FIR, registered at the instance of Ajit Singh, it is stated that on 5.5.2020, he received a call from Vikramjit Singh that somebody has fired a shot on his brother Pradeep Singh in the market and he is lying in injured condition. The complainant reached at the spot where he met his brother Pradeep Singh, who told that when he was returning from the house of some known person on his school and reached near ICICI bank, three unknown persons came on a motorcycle and blocked his way. One of them was carrying a pistol, who got down from the motorcycle and asked him to handover everything. The other person snatched Rs.2,000/- and a mobile phone and, thereafter, they fired shots, which hit on his right leg. Thereafter, the complainant, by arranging a vehicle, took his brother Pradeep to the hospital.

The counsel for the petitioner(s) submit that, at the first instance, the complainant has stated that his brother informed him that three unknown persons have caused him injury and snatched money and mobile phone. Counsel for the petitioner(s) further submit that both the petitioners were not named in the FIR and later on, after two days of the occurrence, i.e. 7.5.2020, the statement of Pradeep Singh was recorded, in which he named Nikhil Pakhi @ Stylist @ Sonu as the person, who came on the motorcycle and pillion riders were Simranjit Singh @ Kaka and Kartik Ghora. Akash Arora @ Bhanu and petitioner- Aman Malik @ Nakul, along with Rohat @ Raja, Nakul @ Karan @ Vikki also came on another Activa scooter. Simranjit Singh @ Kaka was carrying a pistol and asked him to handover whatever was in his pocket. He had thrown the key of the scooter and in the meantime, Simranjit Singh @ Baba Bujjad, who was riding on a motorcycle shot him on his leg and

he fell down. Thereafter, Simranjit Singh @ Kaka and Kartish Ghoda snatched his mobile phone and Rs.2,000/-.

Counsel for the petitioner(s) further submit that after two days, an improved version was given by Pradeep Singh injured. Counsel for the petitioner(s) has submitted that the petitioners were nominated on the disclosure of the co-accused and police has shown the recovery of Activa Scooter and a pistol from them.

Learned counsel for the petitioner(s) then referred to the statement of the complainant, who appeared as PW1. They further submit that he has given the original version as given in the FIR that three unknown persons came on a motorcycle and his statement Ex.P1 was recorded. Counsel for the petitioners submits that in his cross-examination, this witness has stated that it is correct that his brother told him that some unidentified persons came on a motorcycle and out of them, one fired a shot. Counsel for the petitioner further submit that even the statement of injured witness Pradeep was recorded as PW2 in which he has named as many as seven persons, including the petitioners.

Counsel for the petitioners also submit that in this version, Pradeep Singh has stated that Simranjit Singh @ Baba Bujjad gave a fire shot injury on his right leg and he fell down and Simranjit Singh @ Baba Bujjad, along with Kartish Ghoda by showing pistol snatched Rs.2,000/- and a mobile phone and fled away from the spot. Thereafter, he called his brother Ajit Singh (complainant-PW2), who took him to the hospital.

Counsel for the petitioners, with reference to the cross-examination of this witness have further argued that even injured witness was admitted on 5.5.2020 in conscious condition after the occurrence and police came in his presence but he did not made a statement and the statement was recorded after two days, i.e. on 7.5.2020. Counsel for the petitioners have argued that it is a case of improvement by PW2-injured Pradeep Kumar and even if the said statement is taken to be corrected, both the petitioners, though shown to be present on two different scooters other than the motorcycle on which the main accused Simranjit Singh @ Kaka and Kartik Ghoda came and committed the crime, no overt act is attributed to both the petitioners. Counsel for the petitioners have submitted that the petitioners were arrested, later on, on the disclosure of aforesaid two accused, who were already arrested.

Counsel for petitioner-Aman Malik @ Nakul has submitted that the petitioner is in custody for the last 01 year, 10 months and 18 days and is not involved in any such or similar case, except two cases under the Prison Act and one case under the NDPS Act, in which he is on bail.

Counsel for petitioner-Rajan @ Raja has submitted that he is in custody for the last 01 year, 09 months and 20 days and is not involved in any other case.

Learned State counsel, on the basis of the affidavit of the Assistant Commissioner of Police (East), Amritsar, on verification of the contents of the FIR has stated that the names of the main accused

were surfaced in the statement dated 7.5.2020 of the injured victim.

However, the affidavit of the Investigating Officer do not reflect that any injury or overt act is attributed to both the petitioners. The learned State counsel further submits that both the petitioner(s) are involved in some other cases, however, they are on bail.

After hearing learned counsel for the parties and considering the long custody of the petitioners and in view of the fact that the complainant as well as injured witness have already been examined by the trial Court and also in view of the fact that there is no possibility of tempering with the prosecution evidence as the main witnesses have already been examined, I deem it appropriate to grant the concession of regular bail to the petitioners.

Accordingly, the above mentioned petitions are allowed, and the petitioners are ordered to be released on bail, subject to their furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

(ARVIND SINGH SANGWAN)
JUDGE

March 29, 2022
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Whether speaking/reasoned : Yes/No
Whether reportable: : Yes/No