

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

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1. CRM-M No. 39831 of 2021 (O & M)
Date of decision : 23.5.2022

Deepak @ Bhondi

.....Petitioner

Vs.

State of Haryana

.....Respondent

2. CRM-M No. 11400 of 2022 (O & M)

Yogesh @ Yogi

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present : Mr. Chanderhas Yadav, Advocate and
Mr. C.S. Singhal, Advocate, for the petitioner(s)

Mr. Munish Sharma, AAG, Haryana

Mr. Sushil Sheoran, Advocate, for the complainant

VIKAS BAHL, J. (Oral)

This order will dispose of two bail applications filed under Section 439 of Cr.P.C. for grant of regular bail to the petitioners in case FIR No. 142 dated 11.7.2020, under Sections 323, 307, 449, 302, 506 IPC and Section 25 of Arms Act, 1959, registered at Police Station Behal, District Bhiwani.

The first petition i.e. CRM-M No. 39831 of 2021 has been filed by Deepak @ Bhondi and the second petition i.e. CRM-M No. 11400 of 2022 has been filed by Yogesh @ Yogi.

Learned counsel for the petitioners in both the cases have submitted that in the present cases, the petitioners have not been named in the

FIR and there are 4 persons who have been specifically named in the present FIR. It is further submitted that even the unknown persons have not been attributed any specific injury. It is submitted that out of the specifically named 4 persons, 3 persons who had been attributed specific roles, including Manish, Sandeep and Tukhal have been declared innocent and the same would show that version given in the FIR is not correct. It is further submitted that the petitioners have been implicated on the basis of the disclosure statement of Mandeep @ Baghri, which was recorded on 22.7.2020 and even as per the said statement, no specific injury has been attributed to the petitioners. It is further submitted that the petitioner Deepak has been in custody since 23.7.2020 and petitioner Yogesh has been in custody since 20.9.2020 and till date, out of 24 witnesses, only one witness has been examined and an application under Section 319 Cr.P.C. has also been filed by the prosecution, which has been partly allowed and against the said order, revision has been filed in this High Court, which is pending and thus, the trial is likely to take time.

Learned State counsel and the counsel for the complainant, on the other hand, have opposed the present applications for regular bail and have submitted that in the present cases apart from the one deceased, there are two persons Virender and Surender who have suffered injuries. It is further submitted that the injuries suffered by Surender and Virender have been declared to be dangerous to life. It is also submitted that the petitioner Yogesh is involved in 3 other cases and recovery of one pistol, iron rod, axe and danda has been effected from him and from petitioner Deepak, recovery of one iron nozzle pipe has been effected. Although, the said Deepak is stated to be not involved in any other case.

Learned counsel for the petitioner Yogesh has submitted that he has been granted bail in two of the said cases and has been acquitted in the third case. He has relied upon the judgment dated 16.01.2012 passed by the Hon'ble Supreme Court in **Maulana Mohd. Amir Rashadi Vs. State of U.P. and others**; reported as **2012 (2) SCC 382.**, to contend that the facts and circumstances of the present case are to be seen and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in another case. Reference has been made to the relevant portion of paragraph 6 which is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

This Court has heard learned counsel for the parties and has perused the paperbook.

A perusal of the FIR would show that the petitioners are not named in the FIR. Seven persons were specifically named in the FIR, out of which, four persons namely Sandeep, Tukhal, Manish and Mandeep were stated to be present at the spot as per the FIR but during investigation, three persons out of the said four persons i.e. Sandeep, Manish and Tukhal were found to be innocent, thus, causing a dent in the prosecution's case. Even the three other named persons i.e., Indrawati, Dhanpati and Santosh, who were stated to be close to the place of the incident, have also been found to be innocent during investigation. The petitioners are sought to be implicated on the basis of disclosure statement of accused Mandeep, which was recorded

after a period of 11 days from the registration of the FIR. Even, a perusal of the said statement (Annexure P-3 along with CRM-M No. 39831 of 2021), would also show that although all the accused persons were stated to have inflicted injuries but no specific injury has been attributed to the present petitioners. The petitioners are in custody since 23.7.2020 (Deepak) and 12.9.2020 (Yogesh) and out of 24 witnesses, only one witness has been examined and the prosecution had filed an application under Section 319 Cr.P.C., which has been partly allowed, and the said order has been challenged by filing a petition in this Court and the same is pending and thus, the trial is likely to take time.

Keeping in view the abovesaid facts and circumstances, both the present petitions are allowed and the petitioners are ordered to be released on bail on their furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate and subject to their not being required in any other case.

However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present cases, which are only for the purpose of adjudicating the present bail applications. It is made clear that in case the petitioners threaten or influence the witnesses; then it is open to the State to move an application for cancellation of bail of the petitioners.

(VIKAS BAHL)
JUDGE

23.5.2022

Ashwani

Speaking/Reasoned	:	Yes/No
Reportable	:	Yes/No