

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. **CRM-M-34686-2020**

DATE OF DECISION: JANUARY 17, 2022

JAIBIR @ GHOLU ...PETITIONER

VERSUS

STATE OF HARYANA ...RESPONDENT

2. **CRM-M-35624-2021**

DATE OF DECISION: JANUARY 17, 2022

RAJ KUMAR @ RAJU ...PETITIONER

VERSUS

STATE OF HARYANA ...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. CHANDERHAS YADAV, ADVOCATE
FOR THE PETITIONER IN CRM-M-34686-2020.

MR. NARESH JAIN, ADVOCATE
FOR THE PETITIONER IN CRM-M-35624-2021.

MR. BHUPENDER SINGH, DAG, HARYANA.

MANOJ BAJAJ, J.(ORAL)

Petitioners have filed their respective petitions under Section 439 Cr.P.C. for grant of regular bail pending trial in case FIR No.222 dated 22.9.2019, under Section 323, 394, 395, 397, 342, 406, 506 IPC and Section 25 Arms Act, Police Station Sadar Sirsa, District Sirsa, who are in custody since their arrest on 25.10.2019 and 31.10.2019, respectively.

The allegations contained in the FIR as noticed by the Addl. Sessions Judge, Sirsa, in the order dated 23.6.2020, are as under:-

“Brief facts of the prosecution case are that the present

case was registered on 22.09.2019 on the statement of complainant /injured Madan Lal son of Prem Chand, resident of Darbi vide which he alleged that he is supervisor/ incharge in liquor vends of Vinod Bana Wali Bakriawali, Liquor Contractor Circle, Musahibwala, Darbi Circle and its office is at Burj, Karamgarh (Sangar). That on 20.09.2019 at about 2.00 p.m. (night) he alongwith Surender son of Rajender who is munim/clerk in their office, was present where driver of vehicle attached with their liquor vend namely Jai Singh and their cook Roshan Lal, were sleeping in a room. Meanwhile, Raju alias Raj Kumar who is supplier of liquor to the liquor vends since six months back and he also used to collect night payment from liquor vends and deposit the same with their office, came to them alongwith his friends Anil Jakhar, Naresh alias Secretary and Gholu Thakar (applicant-accused) and 2/3 other boys. They started beating to their clerk Surender who was sleeping there. Raju alias Raj Kumar gave danda blows on left hand, left arm, knee and left eye of Surender. Then Raj Kumar and his friends Anil, Naresh and Gholu caused injuries to him (complainant) on right foot, right arm and both hips and also left side of his head. Other 2/3 boys were having pistols and pointed the same on them. 2/3 other unknown persons were also standing outside, they came inside and they opened the almirah lying there and took out four mobile phones. They also threatened them with dire consequences and locked them inside the room and fled away in vehicle of liquor vend Make Bolero bearing No.HR02Y/4023 and they also took away his (complainant) car Make EON bearing No.HR24Y/8658 which was lying parked outside. Raj Kumar had night case payment worth Rs.1,50,000/-

to 2,00,000/- which was also taken away by him. Prayed for taking legal action.”

Learned counsel for the petitioners have argued that as per allegations, petitioner Raj Kumar who was employee of the complainant alongwith his accomplices had allegedly taken away cash from the complainant and other associate, namely, Surender, who suffered injuries also. Learned counsel has argued that as per the prosecution, accused Raj Kumar @ Raju was armed with a stick and the grievous injury suffered on the foot could not have been caused by the stick. Learned counsel has pointed out that though the final report was filed on 27.1.2020, but till date even charges have not been framed against the petitioners. Learned counsel have argued that the trial is likely to consume considerable time, therefore, further custody of the petitioners may not be justified. They have prayed for bail.

On the other hand, learned counsel for the State assisted by PSI Ramit has opposed the aforesaid prayer on the ground that offence is serious and according to him accused Raj Kumar @ Raju came alongwith his accomplices to commit the alleged crime and caused injuries upon Surender. However, on instructions, he submits that the charges are yet to be framed and the case is coming up before the trial Court on 9.2.2022. According to him, petitioner Raj Kumar @ Raju is not involved in any other case of similar nature, whereas his co-accused Gholu is involved in two more cases.

Considering the above background, particularly the custody period of the petitioners and the fact that the trial is yet to commence and as the recent surge in pandemic COVID-19 has again forced the State

Government to impose certain restrictions to prevent the spread of the disease, and it may also add to delay in conclusion of trial, further custody of the petitioners may not serve any useful purpose, who are presently confined in judicial custody after their arrest on .

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioners be released on regular bail in the above case, subject to their furnishing respective requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petition are allowed.

January 17, 2022
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No