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

1. CRM-M-38357-2020
Date of decision : 15.12.2022

Yaad Ram

...Petitioner

Versus

State of Haryana

...Respondent

2. CRM-M-7129-2021
Date of decision : 15.12.2022

Fokrya

...Petitioner

Versus

State of Haryana

...Respondent

3. CRM-M-7492-2021
Date of decision : 15.12.2022

Bunny and another

...Petitioners

Versus

State of Haryana

...Respondent

4. CRM-M-8074-2021
Date of decision : 15.12.2022

Meera

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Gourave Bhayyia Gilhotra, Advocate and
Mr. Akash Manocha, Advocate and
Mr. Lovepreet Singh Sidhu, Advocate for the petitioner
(In CRM-M-38357-2020)

Mr. Ravinder Bangar, Advocate for the petitioner(s).
(CRM-M Nos.7129, 7492 and 8074 of 2021)

Mr. Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

By this common order, four petitions bearing No.CRM-M-38357-2020, CRM-M-7129-2021, CRM-M-7492-2021 and CRM-M-8074-2021 shall stand disposed of.

First petition i.e. CRM-M-38357-2020 has been filed by Yaad Ram, second petition i.e. CRM-M-7129-2021 has been filed by Fokrya, third petition i.e. CRM-M-7492-2021 has been filed by Bunny and Ram Lal and fourth petition i.e. CRM-M-8074-2021 has been filed by Meera, for grant of regular bail in FIR No.24 dated 22.05.2018 registered under Sections 459, 460 of the Indian Penal Code, 1860, and Sections 302, 395, 396, 120-B of IPC and Sections 3(2) V, 5-A of SC/ST Act, (added later on) at Police Station GRP Kurukshetra, District GRP Ambala Cantt.

Learned counsel for the petitioners have jointly submitted that the petitioners except the petitioner-Fokrya are in custody since 02.06.2018 and the petitioner-Fokrya has been in custody since 03.06.2018 (more than 4 years and 6 months) and investigation is complete and challan has been presented and there are 62 prosecution witnesses, out of which, only 37 witnesses have been examined and thus, the conclusion of trial is likely to take time. It is further submitted that the petitioners are not involved in any other case and keeping the petitioners in further incarceration would be in violation of rights of the petitioners enshrined under Article 21 of the Constitution of India. It is contended that FIR has been registered on the statement of Isham Singh, who has not named the present petitioners in the FIR and has named one Sachin and his friends on the basis of suspicion as there was a dispute between Sachin and Raja Ram (deceased). It is further contended that said Sachin has not been challaned. It is argued that there is no eye-witness in the present case and the petitioners have been sought to be implicated solely on account of the fact that their mobile phones were found to be active near Village Neem, Kurukshetra where the incident had taken place. It is further argued that even as per the latest report dated 08.03.2022 submitted by the Deputy Superintendent of Police, Railways Haryana, Headquarters, Ambala Cantt, it is apparent that mobile phones of a large number of people were found to be active in the same area but however, said persons were left out. It has been highlighted that in para 7 of the status report, it has been stated that the complainant-Isham Singh was

also suspicious of one Sukhbir @ Sukha other than Sachin Kumar but no incriminating evidence was found against him also. It is also submitted that the presence of the petitioners is neither proved from the CCTV Footage nor from any other material and the primary evidence against the petitioners is that their mobile phones were found to be active near Village Neem, Kurukshetra and their alleged disclosure statements admitting their guilt. It is also contended that as crude padding, Surender Kumar and Ram Pal, who are truck drivers, have been made as witnesses, although, their mobile phones were also working in the same area and the said witnesses are not even eye-witnesses to the incident in question. It is also argued that even if the entire evidence, which has been collected by the prosecution as stated in report dated 08.03.2022, is taken into consideration, then also, there is every likelihood that the petitioners would be acquitted.

On the other hand, learned State Counsel has referred to the status report dated 08.03.2022 and has opposed the present petitions for grant of regular bail to the petitioners and submitted that in the present case, murder of two persons had taken place i.e. Raja Ram and Arjun and grievous injuries had been inflicted upon one Sandeep who also subsequently died and large number of sheep were also killed/injured. It is further submitted that a perusal of the said report would show that the police has been able to connect the present petitioners with the offence on account of their mobile phones having been found to be active near Village Neem and on account of disclosure statements suffered by them

and also, on account of the recovery of dandas effected from the present petitioners. It is argued that the truck drivers Ram Pal and Surender Kumar whose mobile phones were also working in same area had got their statements recorded to the effect that they had identified the present petitioners as the persons who had taken lift from them and were present in the area where the incident in question had taken place.

Learned counsel for the petitioners, in rebuttal, have submitted that the recovered dandas/sticks are commonly available in various areas and there is no proof that the said sticks were used in the commission of the offence in question as neither they are stated to be bloodstained nor there is any report or any proof that the deceased were killed by the said dandas.

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

All the petitioners, except Fokrya, have been in custody since 02.06.2018 and the petitioner-Fokrya has been in custody since 03.06.2018 and thus, custody of each of the petitioner(s) is more than 4 years and 6 months and investigation is complete and challan has been presented and out of 62 prosecution witnesses, only 37 witnesses have been examined as yet and thus, the conclusion of trial is likely to take time. The petitioners are stated to be not involved in any other case. In the present case, there is no eye-witness and thus, the entire case is based on circumstantial evidence. A perusal of FIR would show that the same had been registered on the statement of Isham Singh, who is the brother

of the deceased-Raja Ram and he had alleged that on 21.05.2018, one Sachin alongwith another person, who was ultimately found to be Sukhbir @ Sukha (not one of the present petitioners) wanted to buy sheep from Raja Ram (deceased) but the said deal did not materialize. Thereafter, on 22.05.2018, at about 5 AM, the complainant was informed by unknown persons that near the railway station, lots of sheep were lying dead and that his brother and Arjun were also lying dead and that one Sandeep was in a critical condition and hands and legs of all the three persons were tied and large number of sheep were also injured. The said complainant had raised suspicion upon Sachin and his friend (who later on turned out to be Sukhbir @ Sukha). The petitioners(s) have not been named in the FIR. The detailed status report dated 08.03.2022 has been filed by the Deputy Superintendent of Police, Railways Haryana, Headquarters, Ambala Cantt in the present case and as per para 7 of the said status report, it has been found that Sachin Kumar and Sukhbir @ Sukha, about whom the complainant-Isham Singh was suspicious, have been found to be innocent as no incriminating evidence has come to light against them. Even in the supplementary statement recorded by the complainant-Isham Singh, the present petitioners have not been named. It is apparent from para 9 of the said status report that a large number of suspected persons including Hansraj, Vinod Kumar, Ram Kumar and Rohit @ Kalwa were questioned but nothing was found against them and thereafter, when further investigation was carried out, large number of mobile phones as have been detailed in para 15 of the said report, were

found to be active near the place of occurrence. One of the suspected mobile No.9729865280 belonged to one Ram Pal son of Badan Singh and enquiry was conducted and he was also found to be innocent. Thereafter, on 01.06.2018, further suspected mobile numbers which were found to be active near Village Neem were found to be used by Ram Lal (petitioner), Meera Devi (petitioner), Bani (petitioner), Ramesh, Kamlesh and Mathura and it has been stated in para 14 of the status report that on further enquiry having been made from them, they admitted their guilt and thus, as per the said status report, the starting point on the basis of which the petitioners were found to be involved in the present case was the factum of their mobile phones being active near Village Neem and their disclosure statements admitting their guilt. It is further stated in para 15 of the status report that after further investigation, evidence against the petitioner-Fokrya also surfaced and thus, he was arrested. However, the details of the said material have not been mentioned. The disclosure statements of the petitioners were recorded and recovery of dandas was made from various accused persons including the present petitioners. It is further the case of the prosecution that the statements of truck drivers namely Ram Pal and Surender Kumar were also recorded and the said persons were the persons who, although were not eye-witnesses, but were the persons whose mobile phones were found to be active near the place of occurrence and had stated that the present petitioners had taken a lift in their trucks. The question whether on the basis of abovesaid material, the petitioners would be convicted or not, would be finally adjudicated by the

trial Court. This Court does not wish to give any final opinion lest it would cause prejudice to either of the two parties.

Keeping in view the abovesaid facts and circumstances, more so, the custody period of the petitioners and the stage of the trial and their past antecedents and also the fact that there is no eye-witness in the present case, all the petitions are allowed and the petitioners are ordered to be released on regular bail on their furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate, subject to them not being required in any other case.

However, it is made clear that in case, any act is done by the petitioners to threaten the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioners.

Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid judgment.

15.12.2022

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:- **Yes/No**

Whether reportable:- **Yes/No**