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

1) CRM-M-41982-2022
Date of decision: 28.10.2022

Ajay @ FusadPetitioner

versus

State of HaryanaRespondent

2) CRM-M-48244-2022
Date of decision: 28.10.2022

Anup @ GoluPetitioner

versus

State of HaryanaRespondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Anil Mehta, Advocate
for the petitioner (in CRM-M-41982-2022).

Mr. Aman Pal, Advocate
for the petitioner (in CRM-M-48244-2022).

Ms. Gaganpreet Kaur, AAG, Haryana.

NAMIT KUMAR, J.

These petitions have been filed under Section 439 Cr.P.C. seeking regular bail in a case bearing FIR No.52 dated 15.02.2022 under Sections 148/149/195-A/307/506 of Indian Penal Code and Sections 25/54/59 of the Arms Act registered at Police Station Bhiwani Khera, District Bhiwani. Both petitions are being taken up and disposed off together by this common order as both petitions are arising out of the same FIR. However, facts are being extracted from CRM-M-41982-2022 (Main Petition) for the sake of brevity.

The case of the prosecution is that the FIR in question has been

registered at the instance of the complainant-Vinay to the effect that on 19.01.2022, Sumit Rathi, Amit (Golu), Krishan (Makha), Kuldeep Gaadri and others had came to his '*Dhaba*', gave beatings and snatched money from him. It is alleged that they also gave beatings to his brothers, namely, Amarjeet, Sachin and Akshay and also snatched money and gold chain from them on gun point and in this regard, a case bearing FIR No.26 dated 23.01.2022 under Sections 147/149/323/427/506/379-B of IPC and Section 25 of the Arms Act, 1959 was registered against them in Police Station Bhiwani Khera. It is further alleged that Krishan, Sombir Chhilar, Gadrhi, Golu (Amit), Sumit Rathi and others were pressurizing him for compromise in the above stated case, but he and his family members refused. It is further alleged that on 14.02.2022, at around 08:10 PM, he along with his workers and customers, was present at '*Dhaba*' and meanwhile, Sumit Rathi, Krishan (Makha), Kuldeep (Gadrhi), Sombir (Chhilar), Amit (Golu) and one another boy, came there on two motorcycles. Amit (Golu), Krishan (Makha) and Sumit Rathi were armed with pistols, whereas, Kuldeep (Gadrhi), Sombir (Chhilar) and others were armed with '*dandas*'. It is further alleged that Amit (Golu) fired shot with an intention to kill him; he ran inside the '*dhaba*' and in order to save himself locked from inside. It is further alleged that Sumit and others also damaged the motorcycles parked in the '*Dhaba*'. On hearing noise of fire shot, his brothers Amarjeet and Sachin reached along with other customers and workers; on seeing them, the assailants fled away along with their respective weapons, from the spot, however, while leaving, they threatened him and his brothers with dire consequences and, thus, the present FIR has been got registered.

On issuance of notice of motion, the learned State counsel has

filed reply/status report dated 27.10.2022 by way of an affidavit of Sh. Aryan Chaudhary, HPS, Deputy Superintendent of Police (HQ) Bhiwani, Haryana, on behalf of the respondent-State in main petition (CRM-M-41982-2022) and the same is taken on record. In the status report, it has been submitted as under:-

“5.That during investigation, accused persons, namely, Narender son of Randhir, Anup @ Golu son of Raghbir, Surender @ Akshay son of Ramesh, Amit alias Golu son of Jagjiwan and Ajay @ Fusad son of Jogiram (present petitioner) were found confined in District Jail, Bhiwani, in another FIR No.88 dated 20.02.2022, under Sections 279, 336, 186, 353 of IPC and Sections 25/54/59 of Arms Act, Police Station Tosham and as such, their production warrants were got issued on 28.02.2022 from the concerned Court for 23.03.2022. However, before the date of production warrant i.e. 23.03.2022, accused Narender son of Randhir was released on bail in the above case FIR No.88/2022, on 04.03.2022 upon which, he was joined in investigation of present FIR No.52/2022 and after finding cogent evidence against him, he was arrested in accordance on date 04.03.2022 with law. Accused Narender suffered his disclosure statement admitting his guilt of commission of offence and further in pursuance of his disclosure statement, accused Narender got demarcated the place of occurrence.

6.That during investigation, accused Anil son of Satbir was arrested in this case on 18.03.2022 after finding cogent evidence against him in accordance with law. Accused Anil suffered his disclosure statement admitting his guilt of commission of offence and further in pursuance of his disclosure statement, accused Anil got demarcated the place of occurrence.

7.That during investigation on 23.03.2022, accused persons namely 1- Anup @ Golu son of Raghbir, 2- Surender @ Akshay son of Ramesh, 3- Amit alias Golu son of Jagjiwan and 4-Ajay @ Fusad son of Jogiram (present petitioner) were produced from district jail, Bhiwani on production warrants and they were joined in investigation and they were arrested in this case after finding cogent evidence against them in accordance with law. They were suffered their respective disclosure statements admitting their guilt of commission of offence. During investigation, the case properties i.e. one pistol, one motorcycle bearing no. HR-16Y-2380 and motorcycle no. HR-16W-0741 were got transferred in the present case. Accused/present petitioner Ajay has already got recovered the sword in another FIR No. 88/2022, which was used by him in the commission of present offence. As per the disclosure statement, the accused/present petitioner was present at the spot having sword along with other accused persons.

8.That after completion of investigation, the report under Section 173 Cr.P.C. was prepared against accused persons namely Narender, Anoop @ Golu, Anil Jakhar, Surender @ Akshay Mundhalia, Amit @ Golu, Sachin and Ajay @ Fusad (present petitioner) and same submitted in the Court on 21.04.2022. There are total 33 prosecution witnesses and all witnesses including complainant are yet to be examined. The charges against the accused persons including present petitioner have been framed on 17.09.2022. Now, the case is pending in the Court of Sh.

Ashwani Kumar, Ld. Addl. Sessions Judge, Bhiwani, and is fixed for 01.11.2022 for recording prosecution evidence.”

Learned counsel for the petitioner(s) submits that the petitioners have not been named in the FIR and they have been nominated on the basis of disclosure statement of the co-accused and were confined in the District Jail, Bhiwani in another FIR No.88 dated 20.02.2022 under Sections 279/336/186/353 of Indian Penal Code and Sections 25/54/59 of Arms Act, registered at Police Station Tosham and their production warrants were issued on 28.02.2022. He has further referred to Annexure P-3 in (CRM-M-48244-2022) which is a visual report of CCTV camera of complainant-Vinay Kumar, wherein, it has come that the complainant-Vinay Kumar has identified other four accused persons, namely, Amit @ Golu s/o Jeevan Ram; Sumit Rathi; Krishan @ Makha and Kuldeep @ Gadrhi. It has further been submitted that the challan in the present case has been filed before the trial Court and the next date of hearing is 10.11.2022 for prosecution evidence and there are total 33 witnesses which are to be examined on behalf of the prosecution and the petitioners are in custody since 23.03.2022.

Heard counsel of both the parties and perused the records.

Keeping in view the period of incarceration and since the challan has already been presented against the petitioner(s) and the likelihood of trial being prolonged, the present petition(s) is allowed. Culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused-petitioner(s).

Thus, without commenting upon the merits of the case, the petitioners are ordered to be released on regular bail during trial on their

furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

The petition(s) stands disposed off accordingly.

28.10.2022
Neha

(NAMIT KUMAR)
JUDGE

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