

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

1. CRM-M-42613-2022

Parveen @ Beenu

... Petitioner

Versus

State of Haryana

... Respondent

2. CRM-M-42699-2022

Jagmohan

... Petitioner

Versus

State of Haryana

... Respondent

Date of decision : 21.09.2022

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Ms.Aashna Gill, Advocate
for the petitioner in CRM-M-42613-2022.

Mr.Davinder Singh Khurana, Advocate
for the petitioner in CRM-M-42699-2022.

Mr.Praveen Bhadu, AAG, Haryana.

Mr.Naresh K.Chhokar, Advocate
for the complainant.

VIKAS BAHL, J.(ORAL)

This order will dispose of two criminal miscellaneous petitions.

The first petition has been filed by petitioner-Parveen @ Beenu i.e.

CRM-M-42613-2022 and the second petition has been filed by

Both the said petitions have been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioners in FIR No.9 dated 09.01.2022, registered under Sections 148, 149, 323, 307, 506 IPC and Sections 25 and 27 of the Arms Act, 1959 (Sections 120-B and 212 IPC added later on) at Police Station Titram, District Kaithal.

Learned counsel for the petitioners have submitted that the petitioner Parveen @ Beenu has been in custody since 11.01.2022 and petitioner Jagmohan has been in custody since 09.04.2022 and the investigation is complete and the challan has been presented and there are 31 prosecution witnesses, out of which, none have been examined and thus, the conclusion of the trial is likely to take time. It is submitted that the present case is a case of version and cross version and FIR no.10 dated 09.01.2022 was registered on the statement of petitioner Parveen Kumar against 14 accused persons on the allegation that on 08.01.2022 when, in order to resolve the dispute between Kuldeep Ballu and Dixit, their respective supporters had gone to the police station and thereafter, a dispute had arisen and in the said dispute Pardeep Garhi had fired at the petitioner Parveen @ Beenu which had hit on the elbow of his right hand and then Kala Khurana had also fired at the petitioner Parveen @ Beenu and Gurmeet @ Meeta (complainant in FIR no.9) had given two blows with a *gandasi* on the head of the petitioner Parveen @ Beenu and the other persons had also caused injuries to the petitioner Parveen @ Beenu. In the said FIR, it was stated by the petitioner Parveen @ Beenu that in his self defence, he had also fired from his pistol and he was not aware whether the same had hit any person or not. Learned counsel for the petitioner Parveen @ Beenu has further referred to the MLR dated 08.01.2022 as per which

there were 4 injuries suffered by the present petitioner Parveen @ Beenu including injury on the scalp, right shoulder and right elbow. It has been stated that Parveen @ Beenu was admitted in Pt.B.D.Sharma, Post Graduate Institute of Medical Sciences, Rohtak and as per the notes prepared by the doctor (at page 14 of the paperbook) it was found that a metallic foreign body was lodged near the right scapula. It is submitted that in spite of the same, the police had deleted Section 307 IPC from FIR no.10 and had added Section 326 IPC. It is argued on behalf of the petitioner Parveen @ Beenu that although as per FIR no.9, which had been registered on the statement of Gurmeet @ Meeta, the petitioner has been attributed one gun shot injury on the stomach of Pardeep but no recovery of any pistol has been effected from the present petitioner and the said Pardeep is in a fit condition and the said injury was inflicted by the petitioner when he had shot in his self defence, as had been recorded in FIR no.10. It is further argued that in FIR no.9, it has not been mentioned that injuries were also caused to the petitioner Parveen @ Beenu. It is submitted that it was in fact the accused persons in FIR no.10, who were the aggressors and reference has also been made to photographs of the car of the petitioner to show that there were gun shot marks on the windscreen of the said car.

Learned counsel for the petitioner Jagmohan, in addition to the above said points, has submitted that the petitioner was not named in the FIR and was not even named in the first statement suffered by Pardeep (injured) and it was only in the supplementary statement of Pardeep recorded on 07.04.2022, that the petitioner had been named as an accused for the first time and even as per the said statement, the only attribution to the petitioner Jagmohan was that he had given slaps, fist blows and leg

kicks but even in the said statement, no firearm injury was attributed to him.

Learned State counsel and learned counsel for the complainant have opposed both the present petitions and have submitted that as far the petitioner Parveen @ Beenu is concerned, he had inflicted the gun shot injury on the stomach of the injured Pardeep, which has been declared dangerous to life, and has thus, attracted section 307 IPC. It is further submitted that the petitioner Parveen @ Beenu is involved in 4 other cases. It is also submitted that recovery of pistol has been effected from Jagmohan in the present case.

Learned counsel for the petitioners, in rebuttal, have relied upon the judgment of Hon'ble Supreme Court in ***“Maulana Mohd. Amir Rashadi vs. State of U.P. and another”***, reported as ***2012 (2) SCC 382*** to contend that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other cases. The relevant portion of the said judgment 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 paper book.

The present case is a case of version and cross version. FIR no.10 had been recorded on the statement of petitioner Parveen @ Beenu

and as per the said FIR, injuries, including fire arm injuries, were inflicted

upon the petitioner Parveen @ Beenu by the accused persons in FIR no. 10 and as per the MLR, 4 injuries, including injuries on the scalp, shoulder and elbow, had been suffered by the petitioner Parveen @ Beenu. The said petitioner was stated to be admitted in Pt.B.D. Sharma, Post Graduate Institute of Medical Sciences, Rohtak and perusal of notes of the concerned doctor (page 14 of CRM-M-42613-2022) would show that a metallic foreign body was lodged in the right scapula of the petitioner Parveen @ Beenu. In FIR no.10 it has been stated by the petitioner Parveen @ Binnu that it was in self defence that the petitioner Parveen @ Beenu had fired. As per the FIR no.9 the petitioner Parveen @ Beenu has been attributed one injury inflicted on the stomach of Pardeep, which was declared dangerous to life as per the case of the prosecution. The question as to which party was the aggressor and as to whether or not the said gun shot was fired by the petitioner Parveen @ Beenu in self defence, would be finally adjudicated during the course of trial. No pistol has been recovered from the petitioner Parveen @ Beenu. The petitioner Jagmohan was not named in the FIR and was not named in the first statement of the injured Pardeep and was only named in the supplementary statement dated 07.04.2022 of the said Pardeep and even as per the said statement no specific injury has been attributed to him and the only allegation levelled therein is that he had given slaps, fist and legs blows the injured Pardeep and he was not even stated to be armed with any weapon. Petitioner Parveen @ Beenu has been in custody since 11.01.2022 and petitioner Jagmohan has been in custody since 09.04.2022 and the investigation is complete and the challan has been presented and out of 31 prosecution witnesses, none have been examined and thus, the conclusion of the trial will take time.

Keeping in view the above said facts and circumstances, both the 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 them not being required in any other case.

It is made clear that in case, any act is done by the petitioners to threaten or influence 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.

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 petitions.

(VIKAS BAHL)
JUDGE

September 21, 2022
Davinder Kumar

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