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

Date of decision : 28.04.2022

1. CRM-M-39011-2019

Sandeep Singh @ Badda
Vs.

....Petitioner

State of Punjab

...Respondent

2. CRM-M-29244-2020

Harpal Singh @ Kali
Vs.

....Petitioner

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. L.S.Sekhon, Advocate for the petitioner.
in CRM-M-39011-2019.

Mr. S.S.Sidhu, Advocate for the petitioner.
in CRM-M-29244-2020.

Mr. Ramandeep Singh Sandhu, Sr.DAG, Punjab.

MANOJ BAJAJ, J.

Petitioners have filed these separate petitions under Section 439 Cr.P.C for grant of regular bail pending trial in case FIR No.136 dated 08.06.2017 under Sections 302, 364, 341, 186, 120-B, 506, 148 and 149 Indian Penal Code, 1860 registered at Police Station Talwandi Sabo, District Bathinda, who were arrested on 19.07.2017 and 09.07.2017, respectively.

The contents of the FIR as noticed by the Additional Sessions Judge, Bathinda in his order dated 12.12.2017(in CRM-M-39011-2019) are as under:-

“Factual matrix of the criminal case, is that FIR in the present case was registered on the basis of the statement of Vinod Kumar Monu, wherein he alleged that on 8.6.2017, when he was returning to his house and

reached on Talwandi Sabo to Lele Wala road, then at about 9/10.00 AM, one Scorpio vehicle which was driven by Raju Sarpanch, Gursewak Singh and two other unknown persons, who were having revolver and Gandasa and unknown persons were on Shivraj Tractor, followed and encircled him. Raju Singh gave a Gandasa blow, which hit on his right leg and left arm, with intention to kill him. Then, he fell down and other accused also caused injuries with intention to kill him. Thereafter, the above said persons took him in Scorpio vehicle and threw in Bhagi Patti in village Bhagi Bander. In the meantime, police reached at the spot and he was got admitted at Civil Hospital, Talwandi Sabo and thereafter, he was referred to Civil Hospital, Bathinda. On his statement, case under Section 364,341,186 IPC was registered against the accused. While said Vinod Kumar was being taken to Guru Gobind Singh Medical College, Faridkot, he died on the way. Thereafter vide rapat No. 19 dated 8.6.2017, offence under Section 302 of IPC was added.”

Learned counsel for the petitioners have argued that as per FIR, a person in injured condition was stated to be lying in the village, who was later on taken to the hospital by police and the said injured person (Vinod Kumar) got recorded his statement, who alleged that injuries to him were caused by Gursewak Singh, Raju Singh, Badda and two unknown persons. According to learned counsel, the said statement of the injured (Annexure P-2) has been treated as a dying declaration and subsequently on the statement of Kuldeep Kumar (brother of the deceased), eight more persons were indicted as accused, but after completion of investigation, the final report was submitted against five persons including the petitioners, whereas eight persons were found innocent. Learned counsel have further argued that the alleged injuries were caused to the victim by co-accused Raju Singh and others and no specific role is attributed to these petitioners. Learned counsel have further drawn the attention of the Court to the order dated 04.11.2020 and submitted that this Court released them on interim regular bail

considering their length of custody as well as breakout of pandemic, and ever since their release, they have not misused the concession and are regularly attending the Court. It is pointed out that the material witnesses including the Kuldeep Kumar (brother of deceased) have already been examined, therefore, the petitioners be released on regular bail.

On the other hand, learned State counsel assisted by ASI Surjit Singh while opposing the prayer does not dispute this fact that the out of 28 prosecution witnesses, seven witnesses have already been examined and during investigation nothing was recovered from the petitioners. He on instructions further states that the case is now fixed for 24.05.2022 for recording the remaining prosecution evidence before the trial Court.

After hearing learned counsel for the parties and considering the above background as well as custody of the petitioners, this Court find that the prosecution has already examined the material witnesses, therefore, their detention behind the bars would not serve any useful purpose particularly when the concession of interim regular bail extended to them has not been misused.

Resultantly, without meaning any expression of opinion on the merits of the case, the petitions are allowed. It is further ordered that the petitioners shall continue to remain on bail bonds and surety bonds already furnished by them before the trial Court.

28.04.2022

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(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No