

CRM-M-47823 of 2022

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

CRM-M-47823 of 2022
Date of decision: 12.12.2022

Najir and another

.....Petitioners

versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Farukh Abdullah, Advocate,
for the petitioners.

Mr. Vikrant Pamboo, DAG, Haryana.

NAMIT KUMAR, J. (ORAL)

In terms of order dated 21.10.2022, status report dated 06.12.2022 by way of an affidavit of Ratandeep Bali, Deputy Superintendent of Police, Hathin, District Palwal, on behalf of the respondent-State has been filed, which is taken on record.

This petition has been filed by the petitioners under Section 439 Cr.P.C. read with Section 482 Cr.P.C. seeking regular bail in case FIR No.0032 dated 28.03.2021 under Sections 148, 149, 323, 506 IPC and Section 302 IPC added lateron, registered at Police Station Utawar District Palwal, Haryana.

As per prosecution version incident occurred on 27.03.2021 at 01:30 PM. The FIR was registered on the statement of Mustaq, who was having a kriyana store at village chowk. Shokat (petitioner No.2) used to

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visit his shop for purchasing various items. There was exchange of heated words between them on account of return of some money. Shokat abused the complainant. The complainant tried to stop him for not doing so. They went to their houses and at the same point of time Shokat and his family members entered the house of the complainant and beaten them and they were having dandas and lathis in their hands. Petitioner No.2-Shokat was having a stick and he gave a stick blow on the head of his father. Majid son of Kallu was having an iron rod and he gave iron rod blow on the head of his father. The other accused gave kick and fist blows to them. When he raised alarm, his uncle Muvin son of Rahim Baksh and his grand-father Rahim Bash along with some villagers reached there. The accused caused injuries to his uncle Muvin also. Thereafter, accused fled from there with the threatening that on that day they had been saved by the villagers and they would kill them in future. His father Sheru was shifted to Nalhad Hospital, Nuh but he was referred to higher center. His father was got admitted in All India Institute of Medical Science, Delhi. Initially, the case was registered under Sections 148/149/323/506 of IPC. During investigation, injured Sheru died on 31.03.2021 and thereafter, the case was converted under Section 302 of IPC.

Learned counsel for the petitioners submits that petitioners are innocent and have been falsely implicated in the present case. He further submits that during trial, Mustak and Wasim sons of Sheru (deceased) deposed as PW1 and PW3, respectively. Rahim Baksh father of the deceased appeared as PW2 and one Salim as PW4. All the above four witnesses did not support the prosecution version. They were declared

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hostile. The material witnesses in the case have testified before the trial Court that incident took place with some unknown persons. The petitioner No.1-Najir is in custody since 05.10.2021 and petitioner No.2-Shokat is in custody since 02.04.2021. He further submits that petitioners are not involved in any other case. Out of total 18 witnesses only 07 witnesses have been examined. He also submits that material witnesses have already been examined in the trial proceedings. Conclusion of trial is likely to take a considerable time. He places reliance upon order dated 21.09.2022 passed by a Co-ordinate Bench of this Court in CRM-M-36101 of 2022 whereby co-accused Rijwan has been granted bail. Therefore, no fruitful purpose would be served by detaining the petitioners behind bars. They may be granted the concession of regular bail.

On the other hand, learned State counsel opposed the prayer for grant of bail to the petitioners. However, he does not dispute the fact that petitioners are not involved in any other case and trial is likely to take considerable time to conclude as well as material witnesses have already been examined and have turned hostile and that the co-accused has been granted bail.

Keeping in view the custody period of the petitioners; material witnesses have resiled from their statements and have not supported the case of the prosecution; co-accused has been granted bail; petitioners are not involved in any other case and the fact that the trial is likely to take a considerable time to conclude; out of 18 prosecution witnesses only 07 have been examined, challan has been presented and charges have been framed, however, without commenting upon the merits of the case, the petitioners

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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 stands disposed off accordingly.

12.12.2022

R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No