

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

1. CRM-M-48829-2022

Dinesh

... Petitioner

Versus

State of U.T. Chandigarh

... Respondent

2. CRM-M-43531-2022

Ashish @ Billa

... Petitioner

Versus

State of U.T. Chandigarh

... Respondent

3. CRM-M-49219-2022

Aniket

... Petitioner

Versus

State of U.T. Chandigarh

... Respondent

Date of decision: 14.11.2022

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Sudesh K.Khurcha, Advocate
for the petitioners in CRM-M-48829-2022 &
CRM-M-43531-2022.

Mr.Sohrab Dhanda, Advocate
for the petitioner in CRM-M-49219-2022.

Mr.A.M.Punchhi, Public Prosecutor with
Mr.Anupam Bansal, Addl.P.P. for U.T. Chandigarh.

VIKAS BAHL, J.(ORAL)

This order will dispose of three criminal miscellaneous petitions. The first petition has been filed by petitioner-Dinesh i.e. CRM-M-48829-2022, the second petition has been filed petitioner-Ashish @ Billa i.e. CRM-M-43531-2022, and the third petition has been filed by petitioner-Aniket i.e. CRM-M-49219-2022.

All the said three petitions have been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioners in FIR No.0061 dated 26.04.2022, registered under Sections 307, 506, 34 IPC at Police Station Sector 39, Chandigarh.

Learned counsel for the petitioners have jointly submitted that petitioner-Dinesh has been in custody since 28.04.2022, petitioner Aniket has been in custody since 02.05.2022 and petitioner Ashish has been in custody since 13.06.2022 and the investigation is complete and the challan has already been presented and since the charges have not been framed, thus, the trial is likely to take time. It is submitted that petitioners Dinesh and Ashish are not involved in any other case and petitioner Aniket is involved in one more case in which he has been granted concession of bail and the said matter has been compromised. It is further submitted that petitioner-Dinesh is on similar footing as that of Gurmeet who has been granted the concession of regular bail by this Court vide order dated 30.09.2022 passed in CRM-M-44738-2022 inasmuch as the said Dinesh has not been attributed any injury and the only allegation against Dinesh is that he had caught right hand of Ajay (brother of the complainant).

Learned counsel for the petitioner-Aniket has submitted that as per the FIR, there were 4 accused persons, 3 of whom were specifically

named and 1 unknown person was stated to be a resident of Barmajra. It is stated that Aniket is not a resident of Barmajra and is a resident of Sector 56, Chandigarh and it is Ashish @ Billa who is a resident of Barmajra. It is further stated that it was only subsequently in the statement dated 26.05.2022 of Ajay recorded under Section 161 Cr.P.C. that it had been mentioned that there were 5 persons, including the present petitioner. It is stated that no specific injury has been attributed to the present petitioner even as per the said statement of Ajay.

Learned counsel appearing for Ashish @ Billa has submitted that the petitioner Ashish @ Billa is a young boy of 20 years and has never been involved in any other case and since the recovery has already been effected in the present case and the investigation is complete, thus, no useful purpose would be served by keeping the petitioner Ashish @ Billa in further incarceration. It is further submitted that the petitioner Ashish @ Billa, without admitting his liability and in order to show his bonafide, is ready to pay Rs.50,000/- to the complainant party on account of the medical expenses incurred by the complainant party.

Learned Public Prosecutor, on the other hand, has opposed all the three petitions for regular bail and has submitted that in the present case there are two injured, one being Ajay (brother of the complainant) who had received three injuries and the said three injuries have been declared as grievous in nature and the other being Bimla Devi, mother of said Ajay had suffered three injuries, although the said three injuries were declared simple in nature. It is stated that although in the FIR the names of Aniket and Ashish @ Billa have not been mentioned but in the FIR it has been specifically stated that one unknown boy was also involved in the

occurrence and he was from Barmajra and it is Ashish who is from Barmajra and it is submitted that victim Ajay Kumar had specifically named five persons in his statement and had stated that Rishi, Aniket and Ashish @ Billa were carrying iron sword in their hands.

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

Petitioner Dinesh has been in custody since 28.04.2022 and he has not been attributed any injury and his case is on the same footing as that of Gurmeet who has been granted regular bail by this Court vide order dated 30.09.2022 passed in CRM-M-44378-2022. The only allegation against the said Dinesh is that he had caught the right hand of the injured Ajay (brother of the complainant). The said Dinesh is not involved in any other case and thus, deserves the concession of regular bail.

Petitioner Aniket has not been named in the FIR and a perusal of the FIR would show that it has been stated that there were 4 persons, out of which 3 had been specifically named and one unknown person was stated to be a resident of Barmajra and it has not been disputed that petitioner Aniket is not a resident of Barmajra but it is Ashish @ Billa who is a resident of Barmajra. Although, said Aniket has been specifically named in the statement under Section 161 Cr.P.C. of the injured Ajay but there are arguable points in his favour and said Aniket has been in custody since 02.05.2022 and the investigation is complete and thus, said Aniket deserves the concession of regular bail.

It is Ashish @ Billa who has been alleged to be armed with a sword and although, he has not been specifically named in the FIR, but it is the case of the prosecution that the unknown person mentioned in the FIR,

who was stated to be a resident of Barmajra, is petitioner Ashish @ Billa who is alleged to have caused the injury upon injured Ajay with an iron sword. In the present case, Ashish has been in custody since 13.06.2022 and the investigation is complete and the challan has been presented and since the charges have not been framed, the trial is likely to take time. Petitioner Ashish @ Billa is stated to be not involved in any other case. Learned counsel for petitioner Ashish @ Billa has stated that without admitting his liability and in order to show his bonafide, petitioner Ashish @ Billa is ready to pay Rs.50,000/- to complainant party on account of the medical expenses incurred by the complainant party.

Keeping in view the above said facts and circumstances, all the three 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.

Petitioner Ashish @ Billa is directed to deposit an amount of Rs.50,000/- with the trial Court within a period of 15 days from today as undertaken by the counsel for petitioner Ashish @ Billa. The trial Court is directed to release the said amount of Rs.50,000/- to the complainant immediately after the said deposit is made.

The deposit of said amount of Rs.50,000/- with the trial Court, would be not construed as an admission of guilt by petitioner-Ashish @ Billa.

It is made clear that in case the said amount is not deposited with the trial Court within the aforesaid period, then the bail granted to petitioner Ashish @ Billa would be deemed to have been dismissed.

However, 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.

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 case which are only for the purpose of adjudicating the present bail petition.

(VIKAS BAHL)
JUDGE

November 14, 2022
Davinder Kumar

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