

CRM-M-53336-2021;
CRM-M-15288-2022 and
CRM-M-15570-2022

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
(208)**

1. CRM-M-53336-2021

Arun Kumar @ Rahul SainiPetitioner

Versus

State of PunjabRespondent

2. CRM-M-15288-2022

Hitesh Singla alias StephuPetitioner

Versus

State of PunjabRespondent

3. CRM-M-15570-2022

Sahil Sharma alias Krishan KumarPetitioner

Versus

State of PunjabRespondent

Date of decision: - 19.05.2022

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. A.S. Salar, Advocate, for the applicants-petitioners.

Mr. Sarabjit S. Cheema, AAG, Punjab.

VIKAS BAHL, J. (ORAL)

This order will dispose of three petitions. The first petition has been filed by Arun Kumar @ Rahul Saini i.e. CRM-M-53336-2021; second petitioner has been filed by Hitesh Singla alias Stephu i.e., CRM-M-15288-2022 and the third petition has been filed

Sahil Sharma alias Krishan Kumar i.e., CRM-M-15570-2022.

The above said three petitions have been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioners in FIR No.135 dated 21.08.2020, under Sections 302, 307, 427, 506, 148 and 149 IPC and Section 25-54-59 of the Arms Act, at Police Station Civil Lines Bathinda, District Bathinda.

Learned counsel for all the three petitioners has submitted that the petitioners are in custody since 29.08.2020 and in the present case there are 24 prosecution witnesses, out of which, 4 have been examined and all the said four witnesses have not supported the case of the prosecution. It is submitted that the FIR was registered on the statement of Mehar Chand, father of the deceased, against five named accused including the three petitioners, who have filed the present petitions, on the allegations that the complainant had been informed by his son Manoj Kumar @ Bunty that injuries have been inflicted upon Lalit Kumar @ Lucky (deceased) by several persons including the three petitioners. It is submitted that as per the case of the prosecution, there were three eye witnesses in the present case i.e., Manoj Kumar @ Bunty, Vikram and Sunny, who have been examined as, PW-4, PW-1 and PW-2 respectively and none of the said witnesses have supported the case of the prosecution. It is submitted that even Mehar Chand, who is father of the deceased, has appeared as PW-3, has not supported the case of the prosecution. It is further submitted that co-accused of the petitioner, namely, Kaishav @ Keshav Kumar @ Keshav Kumar, has already been granted the

concession of regular bail by a Co-ordinate Bench of this Court, vide order dated 01.12.2021 passed in CRM-M-22164-2021. It is further submitted that as far as, witness Dilbag Singh, who is yet to be examined, a perusal of his statement would show that he is not an eye witness to the occurrence in question and in fact, come after the firing had taken place and in his statement recorded under Section 161 Cr.P.C., he has not named any of the persons, much less, the present petitioners.

Learned State counsel, on the other hand, has opposed the above-said three petitions for regular bail and has submitted that in the present case, one Dilbag Singh is yet to be examined, although, all the star witnesses have been examined. It is further submitted that although, all the star witnesses have not supported the case of the prosecution, but there is enough scientific evidence to connect the present petitioners with the crime in question, which includes call details, tower locations and even videos which became viral on social media. It is also submitted that a gun was recovered from petitioner Sahil Sharma alias Krishan Kumar and empty cartridges which were recovered from the spot, were fired from the gun which has been recovered from the said Sahil Sharma alias Krishan Kumar (one of the petitioners). Although, it has been reaffirmed that the petitioners are not involved in any other case.

This Court has heard learned counsel for the parties and gone through the paper-book.

Perusal of the present FIR would show that, it was Manoj Kumar @ Bunty, the brother of the deceased, who is the star witness in

the present case and other eye witnesses i.e., PW1-Vikram and PW2-Sunny, have been examined and their statements have been placed on record as Annexures P-9, P-4 and P-8, respectively. A perusal of the above said statements would show that each of the said witnesses have stated that they have no knowledge regarding the facts of the present case and did not identify the accused persons including the present petitioners. It is further stated that they had seen the accused persons for the first time in the Court on that day and they had not given any statements to the police. Even the complainant Mehar Chand, father of the deceased, who has been examined as PW-3, has not supported the case of the prosecution. As far as witness Dilbagh Singh is concerned, a perusal of his statement, which has been recorded under Section 161 Cr.P.C. and has been annexed as Annexure P-11, would show that he has not specifically named any person, much less, the present petitioners as the persons who inflicted injuries upon the deceased. The petitioners are stated to have been in custody since 29.08.2020 and the challan has already been presented in the present case, there are total 24 prosecution witnesses, out of which, 20 are yet to be examined, thus, the trial is likely to take some time and the petitioners are stated to be not involved in any other case.

Keeping in view of the above-said facts and circumstances, the present 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

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being required in any other case.

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.

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.

May 19, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No