

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-441-2023 (O&M)
Date of Decision: 11.09.2023

(I)
Brijesh @ Sukha

....Petitioner(s)

Versus

State of Haryana

.....Respondent(s)

CRM-M-12785-2023 (O&M)

(II)
Pardeep @ Baiya

....Petitioner(s)

Versus

State of Haryana

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Sanjeev Majra, Advocate and
Mr. Rahul Makkar, Advocate,
for the petitioner in CRM-M-441-2023.

Mr. Saurabh Dalal, Advocate,
for the petitioner in CRM-M-12785-2023.

Mr. Naveen Kumar Sheoran, DAG, Haryana.

JASGURPREET SINGH PURI, J. (Oral)

1. Both petitions are taken up together for final disposal with the consent of learned counsel for the parties since the prayer in both the petitions pertain to the grant of regular bail and they arise out of the same FIR.

2. Both the petitions have been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioners in FIR No.42

dated 06.02.2021, under Sections 307, 302, 120-B IPC and Section 25 of Arms Act (Sections 212, 326 IPC and Sections 27, 29 of Arms Act added later on), registered at Police Station IMT, Rohtak.

3. It has been submitted by the learned counsels for both the petitioners that so far as the petitioner [Pardeep @ Baiya](#) who has filed CRM-M-12785-2023 is concerned, he is in custody from 08.10.2021 and so far as the petitioner [Brijesh @ Sukha](#) is concerned, he is in custody from 07.04.2021. They submitted that now 5 out of 61 prosecution witnesses have already been examined and the witnesses who have been examined are the material witnesses since one of the witness is the complainant as well as eye witness and other witness is the father of the complainant. They submitted that all the five witnesses have not supported the prosecution version and they have been declared hostile and rather they have stated that the petitioners are not the persons who had fired upon the deceased. They further submitted that the other co-accused namely, Sumit, Narender, Mohit and Phool Kuwar Singh have already been extended the benefit of regular bail. They submitted that considering the aforesaid facts and circumstances where the complainant and his father themselves have not supported the prosecution version, the petitioners may be considered for the grant of regular bail.

4. On the other hand, Mr. Naveen Kumar Sheoran, DAG, Haryana has submitted that so far as the custody period of the petitioners is concerned, the same is correct and it is also correct that 5 witnesses including the complainant and his father who is also the father of the deceased have not supported the prosecution version. He has however submitted that so far as the petitioner [Pardeep @ Baiya](#) is concerned, he is not involved in any other case and so far as the petitioner [Brijesh @ Sukha](#) is concerned, he is involved in

two more cases. He has also referred to the status report filed by the State in CRM-M-12785-2023 wherein it has been so stated that a specific role attributed to the petitioner Pardeep @ Baiya was that he alongwith other co-accused had made a plan to kill Vikas and at the time of incident he was keeping eye on deceased by standing near water tank and one pistol was recovered thereafter from him but there is no act of firing attributable to the petitioner Pardeep @ Baiya.

5. I have heard the learned counsel for the parties.
6. It is a case where petitioner Pardeep @ Baiya is in custody from 08.10.2021 and petitioner Brijesh @ Sukha is in custody from 07.04.2021 and all the material witnesses including the complainant and the father of deceased have not supported the prosecution version and have turned hostile. Some of the other co-accused who are stated to be at parity with the present petitioners have already been extended the benefit of regular bail. The mere fact that qua one of the petitioner namely Brijesh @ Sukha two more cases are still pending will not disentitle the petitioner for grant of regular bail.
7. Consequently, both the petitions are allowed. Both the petitioners shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.
8. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petitions only.

11.09.2023

rakesh

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking	:	Yes/No
Whether reportable	:	Yes/No