

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

1. CRM-M-2090-2023 Date of Decision: 17.03.2023
Judgement reserved on: 15.03.2023

Ramesh --Petitioner

Versus

State of Haryana --Respondent

2. CRM-M-5756-2023

Rakesh @ Harkesh & another --Petitioners

Versus

State of Haryana --Respondent

3. CRM-M-1001-2023

Mukesh Bavari --Petitioner

Versus

State of Haryana --Respondent

4. CRM-M-2133-2023

Mathura --Petitioner

Versus

State of Haryana --Respondent

5. CRM-M-2304-2023

Kamlesh --Petitioner

Versus

State of Haryana --Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. Ravinder Bangar, Advocate for the petitioners.

Mr. Kirpal Singh, AAG, Haryana.

RAJESH BHARDWAJ.J (Oral)

This common order will dispose of the aforementioned five petitions filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioners in case FIR No.24 dated 22.5.2018 registered under

sections 459, 460 IPC (later on sections converted into sections 302, 395, 396, 120-B IPC and Section 3(2) V, 5-A of SC/ST (Prevention of Atrocities) Act at Police Station, G.R.P., Kurukshetra, District G.R.P., Ambala Cantt.

As per factual matrix, on 22.5.2018 a complaint was received from a railway employee, wherein it was disclosed that about 35-40 dead sheep were found on the railway track. On receiving the information police arrived at the spot and statement of complainant Isham Singh was recorded, wherein it was stated that his brother Raja Ram, one Arjan and Sandeep lived in the camp and they had about 500 sheep, 3 goats, 2 lambs and 2 donkeys and they used to sleep near said animals. On 22.5.2018 at about 5 A.M some unknown person told him that some sheep are lying dead on the railway track. On receiving the information they reached Railway Station, Pindari and found that many sheep were lying dead on the track and various were found injured. It was also alleged by the complainant that accused Sachin and his accomplice had killed his brothers also.

On the registration of the FIR the investigation commenced. The post mortem of the bodies of animals and that of the human beings was conducted. During investigation statements of various persons were recorded. The call records were scrutinized and on the basis of the same accused Ramesh (petitioner in CRM-M-2090-2023) was arrested on 2.8.2018, accused Rakesh (petitioner in CRM-M-5756-2023) was arrested on 2.6.2018, accused Mukesh Bavari (petitioner in CRM-M-1001-2023) was arrested on 2.6.2018, accused Mathura (petitioner in CRM-M-2133-2023) was arrested on 2.6.2018 and accused Kamlesh (petitioner in CRM-M-2304-2023) was arrested on 2.6.2018.

The complainant further alleged that he made search of his brothers Raja Ram and Arjun and later on found their dead bodies in the ditches. His brother Sandeep was found in a critical condition. The plastic tape was affixed on their mouths and their hands and legs were tied. Offence under sections 302, 395, 396, 120-B IPC and Section 3(2) V, 5-A of SC/ST (Prevention of Atrocities) Act were also added in the FIR. Petitioners approached the court of learned Addl. Sessions Judge, Kurukshetra for grant of bail, however, after hearing the parties, the same were declined vide order dated 6.1.2023, 14.1.2021, 10.12.2020, 7.12.2019 and 19.4.2022. Aggrieved by the same petitioners have approached this court for grant of bail.

Learned counsel for the petitioners has vehemently contended that the petitioners have been wrongly implicated in the present case. He submits that the case of the prosecution is totally based on the circumstantial evidence and there is no direct evidence in the same. It is submitted that similarly situated co-accused namely Ram Lal, Fokrya, Bunny, Yad Ram and Meera Devi have been granted benefit of regular bail by this court vide order dated 15.12.2022. It is submitted that case of the petitioners is totally at par with that of the co-accused and as the petitioners are behind bars for the last about 4 ½ years and trial would take sufficiently long time to conclude, petitioners in these five petitions may also be granted the benefit of bail.

Learned State counsel has vehemently opposed the submissions made by counsel for petitioners and submits that three murders have taken place and a large number of animals have been killed in this case. It is submitted that a thorough investigation was carried out and the record of the

mobile phones was also verified. As per verification, mobile phones of the petitioners were found to be active near the place of occurrence. On their arrest they suffered a disclosure statement on the basis of which the recoveries of the weapons of offence were carried out. Truck drivers namely Rampal and Surender whose mobile phones were also found to be active in the area had got their statements recorded to the effect that they had identified the present petitioners as they had taken lift from them. It is submitted that complicity of the petitioners in the offence is duly established. However, he has admitted that the petitioners are in custody for the last about 4 ½ years.

I have heard both the sides at length and have gone through the records carefully.

Admittedly, there are total 11 accused in this case out of which 5 have already been granted the benefit of bail. As submitted by learned State counsel out of total 62 prosecution witnesses only 37 have been examined till date, however, he has not denied the fact that the similarly situated co-accused have already been enlarged on bail by this court vide order dated 15.12.2022. The present petitioners are in custody for the last about 4 ½ years.

During investigation, co-accused Sachin Kumar and Sukhbir were found to be innocent and no incriminating evidence was found against them. Case of the prosecution is primarily based on the circumstantial evidence. It is not in dispute that similarly situated co-accused have already been granted regular bail by this court. The veracity of the allegations levelled against the petitioners would be assessed by the Trial Court only upon conclusion of the trial. This court would refrain itself from

commenting on the merits of the case, as the allegations and counter allegations would be assessed only after evaluation of the complete evidence to be led by both the sides before the Trial Court. The trial would take sufficiently long time in its conclusion.

In the totality of facts and circumstances and without making any observation on merits, present petition is allowed. Petitioners be enlarged on bail on their furnishing bail/surety bonds subject to the satisfaction of Trial Court/Duty Magistrate, concerned. Nothing stated herein shall be treated as an expression on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

17.03.2023

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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No