

283 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-11456-2022

Date of Reserve:16.08.2023

Date of Pronouncement:28.08.2023

(i)

Sagar@ Golu

...Petitioner

Vs.

State of Haryana

...Respondent

(ii)

CRM-M-2390-2023

Sandeep @ Bunty

...Petitioner

Vs.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present: Mr. Lekhraj Nandal, Advocate
for the petitioner in CRM-M-11456-2022.

Mr. Mohit Rathee, Advocate
for the petitioner in CRM-M-2390-2023.

Mr. Gaurav Gurcharan Singh Rai, DAG, Haryana.

N.S.Shekhawat J.

1. This order shall dispose off two petitions i.e. **CRM-M-11456-2022** titled as *Sagar @ Golu Vs. State of Haryana* and **CRM-M-2390-2023** titled as *Sandeep@ Bunty Vs. State of Haryana*, whereby the petitioners have prayed for bail in a case arising out of FIR No.15 dated 13.01.2019, under Sections 148,149,302,452 and 506 IPC and under Sections 25/54/59 of the Arms Act, Police Station Badli, District Jhajjar.

2. The FIR in the present case was registered on the complaint made by Akshay Lochab son of Paramjit Singh. As per the complainant, his younger brother Ajay and his mother Kamini had gone to his uncle for some personal work and at about 05:00 PM on 13.01.2019, they returned to their village from

Bahadurgarh. Ajay dropped his mother and the complainant was standing near Prahlad Vatika. When his brother was parking the vehicle, 5/6 boys came from the backside from a Creta Car and entered in their plot and he heard the sound of gun shots, when he went near the plot. Shekhar son of Jokar, Ravi son of Ranbir and Bholu and 2/3 young persons had fired at his brother Ajay, who was sitting on the driver seat and while raising their weapons, they ran towards their car and said that they had killed the younger brother and will not spare the elder one also and fled from there with the weapons. The complainant, shifted his brother to Delhi Hospital, Bahadurgarh, where the doctors declared him brought dead.

3. Learned counsel for the petitioners submitted that the petitioners were not named in the present case and during the course of investigation also, the police could not find sufficient evidence to connect the petitioners with the alleged crime. Even the police had planted false recoveries on them and they have been wrongly involved in the present case. Still further, the petitioners have been nominated as accused in the present case on the basis of the disclosure statements suffered by the co-accused and no test identification parade was held in the present case. Apart from that, Sandeep @ Bunty (petitioner in CRM-M-2390-2023) was arrested in the present case on 08.02.2019, whereas Sagar @ Golu (petitioner in CRM-M-11456-2022) arrested in the present case on 08.02.2019 and the investigation was complete in all respect. Apart from that, the prosecution had relied upon 41 witnesses and only 02 witnesses have been examined so far. Thus, the conclusion of the trial may take quite a long time.

4. On the other hand, learned State counsel has vehemently opposed

the prayer made by learned counsel for the parties and submitted that the following cases have been registered against Sagar @ Golu :-

(i) FIR No.55/2019 under Sections 186, 353, 304/34 of IPC and under Section 25 of the Arms Act, registered at Police Station Sadar Rohtak.

(ii) FIR No.574/2018 under Section 25 of the Arms Act, registered at Police Station Meham.

(iii) FIR No.02/2019 under Sections 379A, 395, 397 of IPC and under Sections 25/54/59 of Arms Act, registered at Police Station Civil Lines, Rohtak.

(iv) FIR No.487/2018 under Section 302 of IPC and under Section 25 of the Arms Act, registered at Police Station Bawana Delhi.

(v) FIR No.18/2019 under Sections 384, 387, 506, 120-B and 34 of IPC, and under Sections 25/27/54/59 of Arms Act registered at Police Station Sadar Bahadurgarh.

(vi) FIR No.249/2018 under Sections 324, 397, 452,34 of IPC and under Section 25/27/54/59 of the Arms Act, registered at Police Station Ashok Vihar North West, Delhi.

(vii) FIR No.06/2019 under Sections 302,34 of IPC and under Sections 25/27/54/59 of the Arms Act, registered at Police Station K.N Kartju Marg, North West Delhi.

(viii) FIR No.268/2016 under Sections 323, 506, 34 of IPC registered at Police Station Sadar Rohtak.

(ix) FIR No.800/2018 under Sections 395, 379-B of IPC and under Section 25 of the Arms Act, registered at Police Station Sadar Bahadurgarh.

(x) FIR No.875/2018 under Sections 379B, 395 of IPC, registered at Police

Station Sadar Bahadurgarh.

Apart from that, the following cases have been registered against Sandeep @ Bunty:-

- (i) FIR No.32/2018 under Sections 379-B,395 of IPC and under Sections 25/54/59 of the Arms Act, registered at Police Station Asauda.
- (ii) FIR No.46/2019 under Sections 399, 402 of IPC and under Sections 25/54/59 of the Arms Act, registered at Police Station Urban Estate,Rohtak.
- (iii) FIR No.487/2018 under Section 302 of IPC and under Section 25 of the Arms Act, registered at Police Station Bawana.
- (iv) FIR No.02/2019 under Section 379A, 395, 397 of IPC and under Section 25 of the Arms Act, registered at Police Station Civil Lines Rohtak.

5. Learned State counsel further submitted that the weapon of offence used by Sagar @ Golu was also recovered from him in case FIR No.55/2019 of Police Station Sadar Rohtak. Later on, the said pistol was taken into possession by the police in the present case as well. Still further, it was stated that 02 prosecution witnesses were also examined in the present case and since the petitioners are hardened criminals, they may influence the witnesses.

6. Learned State counsel further submits that from the above referred list of cases, it is evident that Sagar @ Golu is facing two more murder cases, apart from the present case, whereas the other accused Sandeep @ Bunty is also facing one more case of murder, apart from the present case. In case, the bail is granted to both of them, they would influence the witnesses of the prosecution and no witness will be able to depose against them. Even the official witnesses also would not be able to depose against them.

Learned State counsel further submitted that they have already

extended a threat to kill the complainant and in case they are released on bail, it would be impossible for the witnesses to depose before the Trial Court.

7. I have heard learned counsel for the parties and with their able assistance; I have perused the record carefully.

8. In the present case, no doubt the petitioners are in custody for a sufficiently long period. However, the long period of custody as an undertrial prisoner cannot be held to be illegal as the petitioners in both the cases are hardened criminals. Such custody of petitioners as undertrial prisoners would not be violative of Article 21 of the Constitution of India and would also be in conformity with the law laid down by this Court as well as Hon'ble Supreme Court in a series of judgments. In the present case, not only the prosecution has levelled grave allegations against the petitioners, but this Court has reasons to believe that in case the petitioners are released on bail, it would be almost impossible for the witnesses of the present case to depose very well. In fact, the past conduct of the accused is also one of the most relevant considerations, while deciding the bail application of an accused and it is apparent from the official record that the petitioners are involved in most heinous offences and are not entitled to be the enlarged on bail.

9. In view of the above discussion, both the petitions are ordered to be dismissed.

10. In both the cases, the FIR was registered on 13.01.2019 and both the petitioners are in custody since 08.02.2019. However, it is apparent from the record that the trial is unnecessary delayed due to one reason or the other. Even this Court as well as the Hon'ble Supreme Court have held in a series of judgments that "reasonably expeditious" proceedings in a criminal trial is an

integral and essential part of fundamental right to life and liberty, consequently,
the Trial Court is directed to conclude the trial proceedings at the earliest,
preferably within a period of six months from today.

28.08.2023
hitesh

(N.S.SHEKHAWAT)
JUDGE

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