

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

(I) **CRM-M-13536-2022 (O&M)**
Date of Decision:- 31.1.2023

Naresh ... Petitioner

Versus

State of Haryana ... Respondent

(II) **CRM-M-26494-2021 (O&M)**

Rahul ... Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Manish Soni, Advocate, for the petitioner
in CRM-M-13536-2022.

Dr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Pratham Sethi and Mr. Kanishk Sarup, Advocates,
for the petitioner in CRM-M-26494-2021.

Mr. Munish Sharma, AAG, Haryana.
Assisted by ASI Narender.

Mr. Navraj S. Mahal, Advocate, for the complainant.

GURVINDER SINGH GILL, J. (Oral)

1. This order shall dispose of the above mentioned two petitions wherein petitioners Naresh and Rahul, seek grant of regular bail in a case registered vide FIR No.35 dated 27.01.2019 at Police Station

Badshahpur, Gurugram under Sections 147/148/149/323/302 IPC (later added Sections 506/120- B IPC and Section 25(1B)a, 25(1B)c and 25(1B)d, 25(1C), 27-1 of Arms Act).

2. The FIR was registered at the instance of Jaswant Singh (brother of deceased Harpal), wherein it has been alleged that on 26.1.2019, he was informed by his brother Harpal's daughter namely Anu that when she alongwith her father Harpal were returning back from their plot, then Rahul, Naresh, Lakshmi Narayan, Narender, Sanju and also son of Chini Yadav came there on two motorcycles and started quarreling with them and shot at her father. Dinesh and Sunil, who were passing by, took Harpal to hospital but he succumbed to his injuries.
3. Learned counsel for petitioner-Rahul has submitted that co-accused Rahul who is named in the FIR is a different person i.e. Rahul son of Laxmi Narain whereas the petitioner is Rahul son of Ranbir and he is nowhere named in the FIR and has been nominated as an accused on the basis of disclosure statements of co-accused which would hardly carry any evidentiary value.
4. Learned counsel representing Naresh has submitted that although he is named in the FIR, but there is no evidence worth credence to connect him with the alleged occurrence. It has further been submitted that though, initially in the FIR it is alleged that Anu daughter of deceased had witnessed the occurrence but when she stepped into the witness box, she clearly stated that she was not a witness to the incident. Learned counsel in this regard has drawn the attention of this Court to her statement annexed as Annexure P-5.

Learned counsel has further submitted that since co-accused Jaibir and Vikas Yadav have already been granted bail by this Court, the petitioners deserves the same concession on the ground of parity. Learned counsel has further submitted that in the instant case, the material witnesses i.e. PW-Anu daughter of deceased and PW-Jaswant brother of deceased have already been examined and as such, there is no apprehension of the petitioners influencing the material witnesses.

5. Opposing the petition, learned State counsel assisted by learned counsel for the complainant has submitted that since, one of the petitioner namely Naresh, is specifically named in the FIR and that evidence has surfaced against other petitioner-Rahul indicating their involvement, they do not deserve the concession of bail. Learned counsel has submitted that it is a case where Naresh, who was son-in-law of the deceased had got the deceased eliminated in greed of property and as such, the motive is fully established. Learned State counsel has however, informed that both the petitioners have been behind bars since last about two years and six months. It has also been informed that while petitioner-Rahul stands involved in one case under Arms Act, the petitioner-Naresh is not involved in any other case. It has also been informed that as on date 16 out of cited 43 prosecution witnesses have been examined. Though, learned counsel for the complainant has disputed the aforesaid fact regarding the number of witnesses examined, but nothing has been shown to this effect.

6. This Court has considered the rival submissions.

7. While in the FIR Anu is shown to have witness the incident but when she stepped into the witness box she has categorically stated that the murder had not taken place in her presence. The petitioners have been behind bars for a substantial period of two years and six months. Conclusion of trial is likely to consume time inasmuch as only 16 out of cited 43 prosecution witnesses have been examined till date. The petitioners cannot be said to be habitual offenders. The complainant Jaswant i.e. brother of the deceased as well as PW Anu daughter of deceased have already been examined. In these circumstances, further detention of the petitioners would not be justified. Both the petitions, as such, are accepted and the petitioners are ordered to be released on bail subject to their furnishing bail bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.
8. A photocopy of this order be placed on the file of each connected case.

31.1.2023
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(GURVINDER SINGH GILL)
JUDGE

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