

223 (2 cases)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 05.10.2023
CRM-M-12991-2023 (O&M)

Sonu

....Petitioner

Versus

State of Haryana

....Respondent

CRM-M-14907-2023 (O&M)

Jai Bhagwan

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Rakesh Kumar Lathwal, Advocate, for petitioners.

Mr. Karan Garg, AAG, Haryana.

ARUN MONGA, J. (ORAL)

Vide this common order, above mentioned two bail petitions, arising out of same FIR, are being disposed of.

2. Aggrieved by being denied bail by the learned trial court, the petitioners before this court seek their release as undertrials in a case bearing FIR No. 123 dated 18.05.2020, registered under Sections 302, 323, 452, 148, read with Section 149 of the IPC at Police Station, Barauda, District Sonipat.

3. The FIR was registered on the complaint of Bijender, stating that they are three brothers and one sister. There was a dispute over a plot between the complainant party and Rampal, with a civil case pending in court. The complainant party won the case, which was not acceptable to Rampal and his family. On 17.05.2020, Rampal, along with Satyawan, Parveen, Ishwar, Rajesh, Jai Bhagwan (petitioner), Rajbir, Omi, Neeta, Sunil, Sonu, Ravinder Monu, and others, including the petitioners, came and threw bricks and stones at their house. When the complainants came outside to see, Rampal injured Bijender on his head and left shoulder with bricks. Monu inflicted a brick injury on Narender's mouth, and Rajbir struck Narender's legs and hands with a

danda. It is further stated that Jai Bhagwan and Sonu (petitioners herein) also struck blows with bricks, hitting the chest and back of Jagbir, who died on the way to PGIMS Rohtak for treatment. Other persons also caused injuries to the family members of the complainant with bricks and stones. During the investigation, the petitioners were arrested on 20.05.2023 and have been in custody ever since.

4. Learned counsel for the petitioners contends that there is a history of previous enmity between two sets of parties and states that petitioner Sonu was not even present at the scene of occurrence, as he belongs to another village. His name has been wrongly included, taking advantage of the delay in registering the FIR. He points out that the incident took place on 17.05.2020 at about 10:30 p.m., whereas the FIR was registered on 18.05.2020 at about 02:40 p.m. He further points out that even regarding the role attributed to the petitioners, they are on the same footing as the other co-accused, i.e., pelting stones and bricks in the crossfight that ensued between the two parties. He further submits that, in fact, petitioner Jai Bhagwan himself suffered injuries in the crossfight, as the complainant side was also involved in throwing/pelting stones. The petitioners have thus been falsely implicated in the case.

4.1. Learned counsel for the petitioners submits that eleven persons are facing trial, and out of those 11 accused, 09 have already been granted regular bail by a coordinate Bench of this Court vide orders dated 17.11.2020, 25.02.2021, 09.08.2021, 30.08.2022, and 15.02.2023 (Annexures P-1 to P-5).

4.2. He further submits that the petitioners are not required for further custodial interrogation. There is no likelihood of the petitioners tampering with evidence and/or influencing prosecution witnesses.

5. On the other hand, the learned State counsel opposes the bail petition. He submits that the petitioners have committed a serious offence. He argues that the petitioners are the only ones who threw bricks at the deceased. There are specific allegations that the petitioners also caused injuries to deceased Jagbir with bricks.

Material witnesses have been examined, and they have supported the case of the

prosecution. In case the petitioners are granted bail, there are chances of them fleeing from trial proceedings. He does, however, admit that no other case is pending against them.

6. I have heard the rival contentions of the learned counsels for the parties and have gone through the case file.

7. On a court query, under instructions from SI Neerja, the learned State counsel informs that after filing the challan, charges were framed on 01.03.2021. The investigation concerning the petitioners is complete; thus, they are not required for custodial interrogation.

8. Allegations against the petitioners are a matter of trial at this stage. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Out of 20 prosecution witnesses, 13 have been examined. The conclusion of the trial is still likely to take a long time. Whereas, the petitioners have already been languishing in jail for more than 03 years and 4 months, being behind bars since 20.05.2020.

9. Investigation concerning the petitioners is over, but they are being kept in preventive custody merely on an unfounded suspicion that if they are let out, they may either tamper with evidence and/or influence witnesses.

10. Petitioner Sonu is stated to be a 24-year-old young man, whereas petitioner Jai Bhagwan is stated to be a 36-year-old family person. Having a family to look after, a fixed abode, and clean antecedents, it is unlikely that they pose any flight risk and/or will flee from trial proceedings.

11. Considering the overall scenario and without commenting on the merits of the case, the instant petitions are allowed. I am of the view that no useful purpose would be served to keep the petitioners in further preventive custody.

12. Accordingly, petitioners are ordered to be released on bail on their furnishing bail bonds and surety bonds to the satisfaction of Ld. trial Court, where their case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.

13. In case, petitioners are found involved or get involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of their bail in the instant case.
14. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on merits of the cases as the same are for the limited purpose of bail hearing alone and learned trial Court shall proceed without being influenced with this order.
15. Pending application(s), if any, shall also stand disposed of.
16. A photocopy of this order be placed on the connected case file.

(ARUN MONGA)

JUDGE

05.10.2023

vandana

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