

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(215-1)

CRM-M-18350-2022

Date of decision:- 24.08.2023

Mahabir

... Petitioner

Versus

State of Haryana

... Respondent

(215-2)

CRM-M-47526-2022

Rajender

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Mukesh Rao, Advocate
for the petitioner in CRM-M-47526-2022.

Mr. Sandeep Gahlawat, Advocate and
for the petitioner in CRM-M-18350-2022.

Mr. Ramender Singh Chauhan, AAG, Haryana
for State-respondent.

None for the complainant.

SUVIR SEHGAL, J. (ORAL)

1. This order shall dispose of *CRM-M-18350-2022* titled as *“Mahabir Versus State of Haryana”* and *CRM-M-47526-2022* titled as *“Rajender Versus State of Haryana”* as both the accused have approached this Court for the second time by way of separate petitions filed under Section 439 of the Code of Criminal Procedure, 1973, seeking grant of regular bail in:-

FIR No.	Dated	Police Station	Sections
368	26.06.2020	City Hansi, Police District Hisar	346, IPC (later on Sections 302, 202, 201, 364 and 34, IPC were added)

2. There is no dispute about the version of the prosecution. FIR, Annexure P-1, has been registered on the statement of Swaroop Singh that his younger son, Anil, is missing since 11:00 P.M. of 24.06.2020 when he went with Bharat, son of Sant Ram, complainant's brother. On enquiry from Bharat, he was told that Anil had made a telephonic call to a motorcyclist and went with him.

3. Counsel for the petitioners contend that the petitioners are not named in the FIR and both of them have been arraigned as accused on the basis of supplementary statement of the complainant. By referring to the testimony of the complainant as well as his son, who have been examined as PW-3 and PW-4, respectively. Counsel for the petitioners submit that there are major inconsistencies in their evidence. Counsel for the petitioners submit that the entire case of the prosecution is based on the self incriminating statements of the accused, which have been recorded in police custody and are inadmissible in evidence. Counsel for the petitioners assert that the previous petitions, preferred by the petitioners, were withdrawn in August, 2021 and thereafter the evidence of the crucial prosecution witnesses have been recorded. Still further, it has been argued that the present proceedings have been repeatedly adjourned since February, 2023 to enable Anita @ Neeta, mother of the deceased, to get her statement recorded, but despite repeated opportunities and even assurances extended by the counsel for the complainant, as has been recorded by this Court in order dated 16.02.2023, she has not stepped into the witness box. It has been submitted that Rajender has clean antecedents and Mahabir is involved in two other criminal cases under the Punjab Excise Act.

4.

Per contra, State counsel, upon instructions from ASI, Jai Singh, has opposed the petition and by referring to the status report submitted before this Court, argued that the petitioners in connivance with Bharat had hatched a conspiracy and killed Anil. He submits that initially they hid his body and subsequently burnt it. Counsel contends that the motive for the murder was a property dispute between Sant Ram and the complainant. As per his instructions, seven out of seventeen prosecution witnesses have been examined.
5.

I have heard counsel for the parties and considered their respective submissions.
6.

The complicity of the petitioners in the alleged crime would be determined by the Trial Court on the basis of evidence adduced before it. Petitioners are in custody for the last more than thirty seven months. There is a remote possibility of an early conclusion of the trial. Therefore, this Court is inclined to extend the concession of bail to the petitioners.
7.

Without adverting to the merits or demerits of the arguments addressed by counsel for the parties, petitions are allowed. Petitioners are ordered to be released on bail on furnishing adequate bail/surety bonds to the satisfaction of the Area Magistrate/Duty Magistrate/Trial Court concerned.
8.

It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

24.08.2023

(SUVIR SEHGAL)

Kamal

JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No