

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

(i) CRM-M-19345-2023

PARVINDER TUSHIR

.... Petitioner

Versus

STATE OF HARYANA

... Respondent

(ii) CRM-M-20911-2023

VINAY

.... Petitioner

Versus

STATE OF HARYANA

... Respondent

Date of Decision: 12.05.2023

CORAM: HON'BLE MR. JUSTICE MANJARI NEHRU KAUL

Present:- Mr. Rakesh Kumar Lathwal, Advocate and
Mr. Mohit Malik, Advocate
for the petitioner in CRM-M-19345-2023.

Mr. Ashwani Gaur, Advocate
for the petitioner in CRM-M-20911-2023.

Mr. Munish Sharma, DAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

1. This order will dispose of these criminal petitions i.e. CRM-M-19345-2023 and CRM-M-20911-2023 as both of them have arisen out of common FIR. Facts of the case are taken from CRM-M-19345-2023.

2. Instant petitions have been filed under Section 439 of Cr.P.C. for grant of regular bail to the petitioners in case FIR No.115 dated 23.02.2022, under Sections 323/34/506 IPC (Final Report/Challan has been filed under Sections 302/307/323/34/506 IPC), at Police Station Kundli, District Sonapat.

3. Learned counsel while drawing the attention of this Court to the allegations levelled in the FIR in question contends that a perusal of the same reveals that the petitioner Parvinder Tushir has not been attributed any injury much less fatal on the person of deceased Manglu and only a lalkara had been attributed to him. Petitioner Vinay, on the other hand had been attributed a stick blow on the head of the deceased. However, it was a matter of record that all the material witnesses including the eye witness/complainant Mohd. Sajid while stepping into the witness box had failed to identify the accused/petitioners and even failed to support the case of the prosecution on all other material facts. Learned counsel therefore submits that it clearly lends credence to a false and fabricated case having been planted upon the petitioners. In support learned counsel has drawn the attention of this Court to their deposition annexed as Annexure P-2 and P-3. Learned counsel further submits that since all the material witnesses have been examined and have failed to support the case of the prosecution, further incarceration of the petitioners would serve no useful purpose.

4. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite on instructions from SI Ravinder has not been able to controvert that all the material witnesses including the alleged eye witness and even the wife of the deceased had failed to support the case of the prosecution and as a result of which, they were declared hostile. He however, submits that petitioner Vinay had been attributed an injury on the head of the deceased which proved to be fatal. Qua petitioner Parvinder Tushir, learned State counsel has not been able to dispute the factual aspect of

the role attributed to him in the occurrence in question. Learned State counsel further submits that 16 prosecution witnesses remain to be examined and the next date fixed before the trial Court is 26.09.2023.

5. I have heard learned counsel for the parties and perused the relevant material on record.

6. Petitioner Parvinder Tushir has been in custody since 24.02.2022, whereas, petitioner Vinay has been in custody since 02.04.2022. The material witnesses stand examined and 16 other prosecution witnesses still remain to be examined, hence there is no likelihood of the trial concluding in the near future.

7. In the facts and circumstances, as enumerated hereinabove, no useful purpose would be served in the further incarceration of the petitioners. Accordingly, the present petitions are allowed. The petitioners be admitted to bail to the satisfaction to the trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

12.05.2023
M.Sikka

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