

201-2 cases

Guraditta @ Babbu

... Petitioner

Vs.

State of Punajb

... Respondent

Pardeep Kamar @ Pappu

... Petitioner

Vs.

State of Punjab

... Respondent

Present: Mr. K.S. Brar, Advocate for the petitioner(s)
in both cases.

Mr. Rohit Bansal, Sr. DAG, Punjab.

Mr. D.K. Sihag, Advocate for the complainant.

SUVIR SEHGAL J.(ORAL)

This order shall dispose of CRM-M-24318-2021 titled as **Guraditta @ Babbu versus State of Punjab** and CRM-M-32118-2021 titled as **Pardeep Kamar @ Pappu versus State of Punjab** as both the petitioners are accused in FIR No.206, dated 24.08.2019 registered for offence under Sections 302, 148 and 149 of IPC, 1860, at Police Station Sadar Fazilka, District Fazilka, Annexure P-1, and have approached this

Court by way of separate petitions seeking grant of regular bail under Section 439 of Cr.P.C. For the sake of convenience, facts are being taken from CRM-M-24318-2021.

Case of the prosecution is that FIR, Annexure P-1, has been registered on the statement of Kuldeep Kumar, wherein he stated that Sandeep Kumar, his younger brother, had friendship with Lekh Raj, who had an affair with Priyanka Rani. Relatives and family members of Priyanka Rani were opposed to their relationship. On 23.08.2019, when the complainant and his younger brother were travelling on a motorcycle, they saw Gautam, Rakesh, Manpreet Singh and 8-10 other boys beating Lekh Raj with sticks. In the meantime, a passerby, Ram Kumar also stopped. On spotting Sandeep Kumar, Gautam instigated the co-accused. Sandeep Kumar was physically assaulted and Rakesh Kumar stabbed him in the stomach with a *kirch* and he fell on the ground. When the complainant and Ram Kumar raised an alarm, the accused fled from the spot. Sandeep was taken to a hospital, where he was declared as brought dead.

Counsel for the petitioner(s) argues that Guraditta @ Babbu (petitioner in CRM-M-24318-2021) and Pardeep Kumar @ Pappu (petitioner in CRM-M-32118-2021) have not been named in the FIR and have been implicated as accused on the basis of a supplementary statement of the complainant recorded 05 days later, wherein he has named a number of persons. Counsel submits that upon being apprehended on 25.12.2020 and 23.01.2021, respectively, no recovery has been effected from them and even as per the status report filed by the

State, no specific injury has been attributed to them. He has claimed that the case of the petitioners is at par with co-accused Gurjeet Singh and Pawan Kumar, who have been enlarged on bail by this Court vide order dated 19.07.2021 passed in CRM-M-28931-2020.

Per contra, learned State counsel upon instructions from ASI Milkh Raj, and with the assistance of counsel for complainant, has opposed the petitions and has submitted that the petitioners in connivance with the co-accused, have murdered Sandeep Kumar. It is his argument that the petitioner had attacked the deceased with a pre-determined mind. Upon instructions, he submits that after both accused Guraditta and Pardeep were arrested, a supplementary *challan* was presented on 22.03.2021 and charge was framed on 01.09.2021. As per his instructions, out of 28 prosecution witnesses, none has been examined.

Having heard counsel for the parties, considering the nature of allegations levelled against the accused, length of custody and the stage of trial, this Court is of the view that the petitioners, deserve to be enlarged on bail. Their alleged role in the homicide would remain a subject matter of debate before the trial court.

At this stage, an apprehension has been expressed by the State counsel that if released on bail, they are likely to go underground. This Court is of the opinion that appropriate conditions can be imposed to ensure that the petitioners do not evade the process of law.

Without adverting to the merits or de-merits of the arguments addressed by counsel for the parties, petitions are allowed. Both the

petitioners are ordered to be released on bail on their furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned. In addition, it is ordered that both the petitioners will report to the police station concerned once in every fortnight and will provide their mobile numbers, which they will keep activated, to the I.O./S.H.O., who will make random calls to the petitioners on their mobiles and keep a check on their movement.

It is clarified that any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

27.01.2023
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(SUVIR SEHGAL)
JUDGE

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