

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 14.02.2023

1. CRM-M-7489-2021 (O&M)

Rakesh

... Petitioner

Vs.

State of Haryana

... Respondent

2. CRM-M-18548-2021 (O&M)

Samunder Singh

... Petitioner

Vs.

State of Haryana

... Respondent

3. CRM-M-24998-2021 (O&M)

Narender @ Narpender

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Sumit Sangwan, Advocate
for the petitioner(s) (in CRM-M-7489 & 18548-2021).

Mr. V.K. Sheoran, Advocate
for the petitioner (in CRM-M-24998-2021).

Mr. Pawan Kumar Longia, DAG, Haryana.

Mr. Vineet Chaudhary, Advocate
for the complainant (in all cases).

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in both these petitions is for grant of regular bail to petitioners Rakesh, Samunder Singh and Narender @ Narpender, in FIR No.415 dated 14.10.2018 under Sections 147, 148, 149, 302, 307, 323, 341 IPC and Sections 186, 325, 332, 353 IPC (added later on), registered at Police Station Badhra, District Charkhi Dadri.

It is second petition filed by petitioner Rakesh; earlier one was dismissed vide order dated 19.10.2020.

Learned counsel for the petitioners submit that petitioner Narender @ Narpender is in custody since 04.12.2020, petitioner Samunder Singh is in custody since 23.12.2020 and petitioner Rakesh is in custody since 29.11.2018.

Learned counsel for petitioner Rakesh submits that new ground for filing second petition is that now statement of the complainant, who appeared as PW4, stands recorded and he has not attributed anything towards the petitioner. Learned counsel has also relied upon the order dated 19.10.2020, vide which

some of the accused were granted the concession of regular/anticipatory bail.

Brief facts of the case, as noticed in the order dated 19.10.2020, are that complainant-injured Pardeep got recorded his statement to the police at PGIMS, Rohtak, alleging therein that on 14.10.2018 at 10.00 a.m., Kamal Singh son of Kanha Ram was ploughing his field adjacent to the village with the help of tractor. Family members and relatives of Kamal Singh were also with him at that time. It is further alleged that at about 11.00 a.m., Kamal Singh, after ploughing his fields, came out of the field, when some persons in another tractor from the field side and some other persons from other side, came there, and they stopped their tractor in front of the tractor of Kamal Singh and surrounded Kamal Singh etc. They attacked Kamal Singh etc. and inflicted injuries to them with their weapons. It is further alleged that on hearing the noise, complainant Pardeep along with Vikas and Sombir also reached at the spot. The attackers included Madan, Kamal Singh, Surender @ Pappu, Raj Singh son of Jag Ram, Ved Parkash @ Bedu, Rakesh son of Surender @ Pappu, Vijay, Rakesh Kalu son of Raj Singh, Amit son of Madan Singh, Sachin son of Kamal Singh, Sombir, Narpender son of Prahlad, Satish, Satbir son of Badri, Sukhvender son of Karan Singh, Sandeep son of Randhir, Amit son of Mahender, Mintu son of Mahender, Surender, Samunder son of Mange Ram and Surender son of Lakhbir. Rajesh gave several axe blows on the head of Vikas. Narpender also gave axe blow on the head of Vikas. Other assailants also inflicted dandas blows on Vikas. Then Sombir with the intention to kill the complainant drove his tractor on him. Other persons also inflicted injuries with

dandas and lathis to him. It is also alleged that Kamal Singh, in order to save himself, fired shots from his licensed pistol .12 bore, which hit Sombir. Thereafter, Manjeet, brother of complainant took the injured-victims to General Hospital, Bhiwani, but on the way Vikas and Sombir succumbed to their injuries. Complainant and Kamal Singh were referred to PGIMS, Rohtak. As per the FIR, 22 persons were present at the spot and during investigation, the persons, who caused injuries, were arrested and challan qua them was presented and 14 other persons were found innocent.

For the sake of brevity, facts as stated in the FIR are not reproduced again.

Learned counsel for petitioner Narender @ Narpender submits that neither the petitioner was named in the FIR nor any attribution is made against him in the examination-in-chief of complainant-PW4 Pardeep. Learned counsel has referred to cross-examination of PW4 to submit that this witness has stated that he had given the earlier statement Ex.PW4/A on asking of Kamal Singh son of Kanha Ram, who pressurized him to give statement in a particular manner otherwise he would be implicated as he killed Sombir son of Rameshwar. This witness has also stated that Kamal Singh son of Kanha Ram had fired towards Sombir son of Rameshwar with intent to kill and ultimately died. This witness in clear terms admitted that it is correct Sombir son of Pehlad, Sukhwinder son of Karan Singh, Samunder son of Hari Singh @ Mange Ram, Narender @ Narpender son of Pehlad Singh, Surrender son of Hari Singh @ Mange Ram, Satish, Satbir sons of Badri, Sunder son of Lakhbir @

Lakhvinder and Amit son of Mahender were not present at the spot and they did not cause any injury to anyone including him i.e. PW4, as they had no concern with the land in question.

Learned counsel further submits that the trial is substantially delayed, as statement of PW4 Pardeep was recorded, when the police submitted the challan against 08 accused. Thereafter, the prosecution moved an application under Section 319 Cr.P.C. and 14 additional accused were summoned, whose anticipatory/regular bails, were considered by passing the order dated 19.10.2020. It is also submitted that out of total 56 prosecution witnesses, only 05 PWs have been examined till date.

It is further submitted that no attribution is made towards petitioner Narender @ Narpender, however, an axe is shown to be recovered from him

Learned counsel for petitioner Samunder Singh submits that though a danda was recovered, however, there is no attribution to him.

Learned counsel for petitioner Rakesh submits that though he was part of unlawful assembly, however, no specific role is attributed to him. It is further submitted that the trial is going on and it will take long time in conclusion of the trial.

Affidavit of the Investigating Officer, defining role of the petitioners, is on record. As per this affidavit, recovery was effected from petitioner Rakesh and he was named in the FIR and an axe was recovered from petitioner Narender @ Narpender and a danda was recovered from petitioner Samunder Singh.

Learned State counsel, on the basis of custody certificates, could not dispute custody of the petitioners, however, it is submitted that petitioner Rakesh is involved in one case under Section 294 IPC, though he is on bail and similarly, petitioner Samunder Singh is also involved in one FIR, in which he is on bail, whereas petitioner Narender @ Narpender is not involved in any other case.

Learned counsel for the complainant has, however, submitted that it is a case relating to double murder, wherein allegations against petitioners Rakesh and Narender @ Narpender are that they gave danda blows to deceased Vikas, however, it is co-accused Rajesh, who gave fatal axe blow on head of deceased Vikas, as it is so stated in the statement/cross-examination of PW4 Pardeep, who has been examined twice i.e. prior to filing of the application under Section 319 Cr.P.C. and after re-framing of the charges against 14 additional accused, again he reiterated the version i.e. Rajesh gave axe blows on head of deceased Vikas.

In reply, learned counsel for the petitioners have referred to MLR as well as post-mortem report, to submit that there is no such injury corresponding to an injury given by a danda, which is recovered from petitioners Samunder Singh and Rakesh and as per post-mortem report of deceased Vikas, he suffered two incised wounds over left temporo occipital area and the same are attributed to co-accused Rajesh.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering the facts and circumstances of

the case and the fact that number of co-accused of the petitioners have already been released on bail and also considering the fact that petitioner Rakesh is in custody for the last about 04 years and 02 months, petitioners Narender @ Narpender and Samunder Singh are in custody for the last about 02 years and 02 months and out of total 56 prosecution witnesses, only 05 PWs have been examined so far and the complainant and Kamal Singh have been examined, therefore, there is no possibility of tempering with the prosecution evidence, all these three petitions are allowed and petitioners Rakesh, Samunder Singh and Narender @ Narpender are directed to be released on regular bail subject to furnishing their bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Petitions are disposed of.

A photocopy of this order be placed on files of connected cases.

[ARVIND SINGH SANGWAN]
JUDGE

14.02.2023
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No