

**2023:PHHC:138337**

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

**Date of Decision: 30.10.2023**

**CRM-M-22151-2023 (O&M)**

**AMIT @ MITA**

**... PETITIONER**

**VS.**

**STATE OF HARYANA**

**.. RESPONDENT**

**CRM-M-58806-2022**

**SURENDER ALIAS KALA**

**... PETITIONER**

**VS.**

**STATE OF HARYANA**

**.. RESPONDENT**

**CORAM: HON'BLE MR. JUSTICE VIVEK PURI**

Present : Mr. Vineet Dhanda, Advocate  
for the petitioner in CRM-M-22151-2023.

Mr. Sanjeev Kadain, Advocate  
for the petitioner in CRM-M-58806-2022.

Mr. Surinder Kumar Dagar, DAG, Haryana.

Mr. Sushil Saini, Advocate  
for the complainant

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**VIVEK PURI, J.(ORAL)**

1. The petitioners are seeking regular bail in the case bearing FIR No. 507 dated 07.09.2019 under Sections 302/148/149/120-B/307/201/34 IPC and Section 25 and 27 of the Arms Act (Sections 307/201/34 IPC were added later on and Sections 148 and 149 IPC have been deleted) registered at Police Station City Sonipat, District Sonipat.

2. Custody certificates have been placed on record.

3. Learned counsel for the petitioners contend that the allegations against the petitioners and the co-accused are with regard to commission of murder of Sanjeet. The FIR has been lodged at the instance of Vinod, the cousin of the deceased. During the course of trial, Vinod and other eye

witnesses, namely, Naveen, Rajesh and Bijender have not supported the prosecution version. Although, Surender @ Kala, petitioner, was named in the FIR and recovery of country made pistol has been allegedly effected from him but it does not matches with the empty cartridge cases recovered from the spot as per the ballistic report. Moreover, the allegations qua Amit @ Mita, petitioner, are to the effect that his vehicle has been used in the commission of crime but he has not been named in the FIR. The vehicle recovered from Amit @ Mita is different in description as stated by the witnesses to the Investigating Agency. Surender @ Kala, petitioner, is in custody for a period of 04 years, 01 month and 11 days and Amit @ Mita, petitioner, is in custody for a period of 01 year, 03 months and 10 days. Both the petitioners are stated to be on bail in other cases registered against them.

4. Learned State counsel has not disputed that fact that as per the ballistic report, the empty cartridge cases recovered from the spot does not match with the firearm alleged to have been recovered from Surender @ Kala, petitioner. However, it has been submitted that there is a CCTV Footage indicating the presence of Surender @ Kala, petitioner, with the firearm at the spot. Out of 30, 04 witnesses have been examined.

5. It is significant to note that the complainant and three other eye witnesses have not supported the prosecution version. The name of Amit @ Mita, petitioner, does not find mention in the FIR. The allegations against him are to the effect that he was the owner of the vehicle which has been used in the commission of crime. The involvement of Amit @ Mita, petitioner, in the criminal conspiracy will be a debatable and moot point during the course of trial. The ballistic report is indicative of the fact that

the firearm alleged to have been recovered from Surender @ Kala, petitioner, has not been used in the commission of crime. Still 26 witnesses remain to be examined. Surender @ Kala, petitioner, is in custody for a period of more than 04 years and Amit @ Mita, petitioner, is in custody for a period of 01 year, 03 months and 10 days. The conclusion of trial is likely to take some and no fruitful purpose will be served by detaining the petitioners in further custody.

6. In such circumstances, sufficient grounds are made out to extend the concession of bail to the petitioners. Accordingly, without making any observation on the merits of the case, both the petitions are allowed and petitioners are ordered to be released on bail, subject to their furnishing bail/surety bonds to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

30.10.2023  
smriti

(VIVEK PURI)  
JUDGE

Whether speaking/reasoned : Yes/No  
Whether Reportable : Yes/No