

[CRM-M-24432-2023](#)

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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(218-1)

[CRM-M-24432-2023](#)

Date of decision:- 09.10.2023

Aman

... Petitioner

Versus

State of Haryana

... Respondent

(136+218-2)

CRM-M-27675-2023 (O&M)

Sombir

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Jagjeet Beniwal, Advocate
for the petitioner in [CRM-M-24432-2023](#)

Mr. Ashok K. Sharma Bhana, Advocate
for the applicant-petitioner in **CRM-M-27675-2023**.

Mr. Ramender Singh Chauhan, AAG, Haryana.

...

SUVIR SEHGAL, J. (ORAL)

CRM-41863-2023 in CRM-M-27675-2023

1. Application is allowed as prayed for.
2. Petitioner is permitted to rectify para 11 of the petition.

Main cases

1. This order shall dispose of two cases bearing Nos. **CRM-M-24432-2023** titled as "***Aman Versus State of Haryana***", **CRM-M-27675-2023** titled as "***Sombir Versus State of Haryana***" as both the petitioners have been named as accused in the same FIR and they have approached this

Court by way of separate petitions seeking grant of regular bail under Section 439 of the Code of Criminal Procedure, 1973 in:-

FIR No.	Dated	Police Station	Sections
60	11.02.2022	Jind District Haryana Sadar, Jind,	148, 149, 285, 302, IPC and Section 25 of the Arms Act, 1959 (later on Sections 148 and 149, IPC were deleted and Sections 323 and 34, IPC were added)

2. For the sake of convenience, factual position is being taken from CRM-M-24432-2023.
3. Case of the prosecution is that FIR has been registered on the statement of Darshan Singh, wherein he stated that he is married and has two sons, Devender and Jaipal. At about 10:30 P.M. on 10.02.2022, his family woke up as they heard noise and saw that some persons armed with wooden baseball bats and iron rods had attacked. He identified them as Jagdish, his three sons, namely, Sanjay, Sahil and Sombir (petitioner in CRM-M-27675-2023), and Ajay, Rahul son of Ramdiya, Rahul son of Phool Kumar and Narender. Aman (petitioner in CRM-M-24435-2023), Narender and Sombir were armed with iron rods, whereas Jagdish, Sahil and Sanjay were carrying baseball bats. Sombir was carrying a pistol and he fired shots in the air. Aman and Narender hit complainant’ son, Jaipal, on his head with iron rods. He caught hold of Rahul and tried to intervene, but he was assaulted. On hearing the commotion, villagers started gathering and the assailants fled away. A relative, Aman, admitted them in a Government Hospital, whereas Jaipal succumbed to his injuries. The assailants had attacked Jaipal last year, but the dispute was amicably settled.

4. Counsel for the petitioners have argued that although petitioners have been named in the FIR and have been ascribed specific roles, but in his testimony, Darshan Singh, PW-1, has categorically stated that the petitioners are co-villagers and they never inflicted any injury on him or his family members. He submits that the complainant in his deposition has stated that they were attacked by unknown persons. Reliance has also been placed by them on the testimony of other family members as well as eye witnesses, Annexures P-2 to P-4, to submit that they have deposed on the same lines. Counsel have also made a reference to order dated 13.04.2023, Annexure P-5, passed by this Court, whereby Rahul son of Ramdiya has been granted regular bail. He submits that as all the crucial prosecution witnesses have been examined, the petitioners deserve to be released from confinement.

5. *Per contra*, State counsel, upon instructions from SI, Mahender Singh and by making a reference to the status report filed in CRM-M-24432-2023 has opposed the petition and submits that as a result of the unprovoked attack, a young life has been lost. He submits that the petitioners are the main accused and do not deserve any leniency. He has specific instructions to state that recovery of iron rod and .314 revolver has been effected from the petitioners. Upon further instructions, he submits that six out of twenty four prosecution witnesses have been examined.

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

7. It is evident that the complainant and other vital witnesses examined by the prosecution have deposed and they have been declared

hostile. However, role allegedly played by them and their complicity in the crime would be a matter of debate before the Trial Court. Petitioners are in custody since February/March, 2022 and trial is not even half-way. Noticing the nature of allegations, length of the custody of the petitioners and stage of trial, this Court is inclined to accept the prayers made in the petitions.

8. Without advertng 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.

9. While being released on bail, petitioners shall furnish an undertaking by way of separate affidavits that henceforth they will not indulge in any unlawful activity and in case, they violate the undertaking, liberty is granted to the State to seek cancellation of bail.

10. Nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

09.10.2023
Kamal

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