

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

1. CRM-M-25761-2022
2023: PHHC: 147746

PARDEEP SINGH Petitioner
Vs.

STATE OF PUNJAB Respondent

2. CRM-M-37612-2023
2023: PHHC: 147747

Manveer Singh @ Mani Petitioner
Vs.

STATE OF PUNJAB Respondent

Reserved on:09.11.2023
Pronounced on: 21.11.2023

CORAM: HON’BLE MR JUSTICE DEEPAK GUPTA

Present: - Ms. Sukhpreet Kaur Grewal, Advocate,
for the petitioner (in CRM-M-25761-2022)

Dr. Anmol Rattan Sidhu, Sr. Advocate with
Mr. Mandeep Singla, Advocate,
for the petitioner (in CRM-M-37612-2023)

Mr. M.S. Nagra, AAG, Punjab.

Mr. Shamy Nagrath, Advocate, for the complainant.

DEEPAK GUPTA, J.

This order shall dispose of two petitions titled above, both filed
under Section 439 CrPC. In both the petitions, prayer is to grant regular bail

in a case arising out of FIR No.243 dated 14.11.2019 registered at Police Station Samrala, District Ludhiana under Sections 302/34 IPC.

2. (a) Status report filed by the respondent state reveals that FIR was lodged on the statement of Jasdeep Singh s/o Harnaib Singh, resident of village Mushkabad, Police Station Samrala, District Ludhiana, as per which on 13.11.2019, he alongwith Gurpreet Singh s/o Rai Singh were returning to their village on a motorcycle. At about 6:30 pm, as they reached half kilometer prior to their village, at the kacha path leading towards the motor of Babandeep Singh @ Babbu resident of their village Mushkabad, they noticed jeep of Sukhwinder Singh @ Joosa (deceased) s/o Amrik Singh lying parked at a little distance from the road. Said Sukhwinder Singh @ Joosa and Gurwinder Singh @ Gindi were sitting in the jeep, whereas Babandeep Singh @ Babbu, Manvir Singh (*petitioner in CRM-M-37612-2023*) s/o Sukhdev Singh, Pardeep Singh (*petitioner in CRM-M-25761-2022*) s/o Harnek Singh, were standing outside the jeep towards the driver seat and arguing with Sukhwinder Singh @ Joosa. Hearing the commotion, they (complainant Jasdeep Singh and Gurpreet Singh) stopped on the road. At that time, Babandeep Singh @ Babbu took out a kirch from behind his neck, whereas Manveer Singh took out daat from the left dub of his pants. Gurwinder Singh @ Gindi jumped out of the jeep and fled towards the village to save his life. Then, Babandeep Singh @ Babbu and Manveer Singh gave kirch and daat blows on the body of Sukhwinder Singh @ Joosa, who had alighted from the jeep and had started fleeing away to save his life, but the assailants chased him at a distance of 50 yards and at the kacha path leading towards village Sihala, said assailants caught hold of

Sukhwinder Singh @ Joosa and gave kirch and daat blows on his body. It was further disclosed by the complainant Jasdeep Singh that he and Gurpreet Singh raised alarm, upon which the assailants ran towards them to kill but they managed to flee on their motorcycle.

(b) Then, they (complainant Jasdeep Singh and Gurdeep Singh) narrated the entire incident to Kulwinder Singh @ Kala, brother of Sukhwinder Singh @ Joosa; and Jasdeep Singh son of Major Singh. All of them came to the place of occurrence and saw sharp edged injuries on various parts of the body of Sukhwinder Singh @ Joosa, who had already died. Said Sukhwinder Singh @ Joosa was taken to the hospital but declared brought dead. The motive behind the attack was stated to be the old rivalry.

(c) FIR was registered. Investigation was carried out. Pardeep Singh (petitioner in CRM-M-25761-2022) and co-accused Manjinder Singh @ Pehlwan had been absconding since the registration of the FIR and so, after concluding the investigation, final report under Section 173 CrPC was presented against Babandeep Singh @ Babbu; and Manveer Singh *[in custody since 26.11.2019 as per custody certificate]*. Pardeep Singh (petitioner in CRM-M-25761-2022) and co-accused Manjinder Singh @ Pehlwan were declared proclaimed offender vide order dated 27.01.2021 by Id. SDJM, Khanna. Later on, Pardeep Singh surrendered on 11.08.2021 and supplementary challan qua him was produced before the Court.

(d) Charges have already been framed and case is now fixed for prosecution evidence.

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3. (a) It is contended by learned counsel appearing on behalf of the petitioner that after presentation of challan on 28.02.2020 and framing of the charge on 09.07.2021, trial has not been concluded till date. Ld. counsel has referred to a decision of Hon'ble Supreme Court rendered in *Satender Kumar Antil Vs. Central Bureau of Investigation and another*, 2023 LiveLaw (SC) 577, so as to contend that trial Courts are required to continue the proceedings on a day-to-day basis till the completion of the evidence by resorting to Section 309 CrPC and that delay on the part of the Court or the prosecution in concluding the trial violates Article 21 of the Constitution of India.

(a) Ld. counsel further contends that no FSL report has been received or produced before the Court so as to corroborate the prosecution version; that eyewitness namely, Jasdeep and Gurdeep are not believable unless corroborated by the reliable evidence and even otherwise, there are contradictions in their statements.

By pointing out that petitioner is under incarceration for the last 3 years and 11 months with no criminal antecedents, prayer is made for grant of regular bail.

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4. On behalf of the petitioner Pardeep Singh, it is contended that he has been falsely implicated and has not been attributed any injury to have been inflicted on the body of the deceased. Though petitioner was declared proclaimed offender, but he himself surrendered before the Court of SDJM, Samrala on 11.08.2021; that no recovery was effected from him

and that he is in custody for the last more than 2 years, with no role to play in the incident.

With these submissions, prayer is made for grant of regular bail.

5. Replying to the aforesaid contentions, Id. State counsel ably supported by counsel for the complainant, drawn attention of the Court towards the fact that both the petitioners are specifically named in the FIR to be amongst the assailants; that 5 out of 21 witnesses cited by the prosecution have already been examined and that the eye witnesses have supported the prosecution version in their testimony before the trial Court.

With these submissions prayer is made for rejecting both the petitions.

6. I have considered submissions of both the sides and have appraised the record.

7. Although Id. counsel for the petitioners have drawn attention of this Court towards certain contradictions made in the testimony of PW1 Gurpreet Singh (eyewitness) and PW2 Jasdeep Singh, another eyewitness and complainant of the case, so as to contend that they are not liable in the absence of corroboration but this Court is of the view that it would not be appropriate for this Court to analyze the testimony of the eyewitnesses, lest it may prejudice the mind of the trial Court. However, what this Court notices is that both the material witnesses of the prosecution i.e. eye witnesses Gurpreet Singh and Jasdeep Singh have already been examined apart from PW3 Kulwinder Singh, to whom the incident was later on narrated, as per the prosecution. The Court further notices that as per the

custody certificate, petitioner Manveer Singh is in custody for the last 3 years 11 months and 18 days upto 08.11.2023, which means that as on today, his custody period is 4 years. Similarly, petitioner Pardeep Singh is in custody for the last more than 2 years and 3 months as per the custody certificate. Though petitioner Manveer Singh is specifically attributed to have given daat blows to the deceased, but no specific injury on the part of the petitioner Pardeep Singh is attributed. Out of 21 witnesses cited by the prosecution, only 5 have been examined so far and thus, trial is likely to take long time to conclude. Petitioner-Manveer Singh is not involved in any other case, though petitioner-Pardeep Singh, due to his declaration as proclaimed offender, is also involved in one more case under Section 174A IPC.

8. In all the above circumstances, when material witnesses have already been examined and there does not appear to be any possibility of early conclusion of the trial, so having regard to the custody period of both the petitioners, it will be proper to enlarge both the petitioners on bail, without commenting anything further on the merits of the case. No doubt, due to heavy docket before almost all the trial Courts, it may not be possible to conclude the trial at an early date, but at the same time, the right of speedy trial is a facet of the fundamental right to life and liberty as enshrined in Article 21 of the Constitution of India.

9. Consequently, both the petitioners are directed to be released on regular bail on their furnishing requisite bail bonds and surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned on usual terms and conditions.

Accordingly, both the petitions are allowed.

Any pending application(s), if any, shall stands disposed of.

A photocopy of this order be placed on the file of another connected case.

21.11.2023
Vivek

(DEEPAK GUPTA)
JUDGE

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| 1. Whether speaking/reasoned? | Yes |
| 2. Whether reportable? | No |