

CRM-M-31621 of 2022
CRM-M-40835 of 2022
CRM-M-43964 of 2022

2023:PHHC:053819

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of Decision: April 17, 2023

1. CRM-M-31621 of 2022

Raj Pal Singh alias Jaspreet Singh @ Jassi	...Petitioner
Versus	
State of Haryana	...Respondent

2. CRM-M-40835 of 2022

Jitender Kumar @ Jony	...Petitioner
Versus	
State of Haryana	...Respondent

3. CRM-M-43964 of 2022

Atlaf Khan	...Petitioner
Versus	
State of Haryana	...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: - Mr. Sandeep Singh Jattan, Advocate for the petitioners
in CRM-M-40835-2022 and CRM-M-43964-2022.

Mr. Mewa Singh, Advocate for the petitioner in
CRM-M-31621-2022.

Mr. Randhir Singh, Addl. AG, Haryana.

DEEPAK GUPTA, J.

This order shall dispose of three petitions as above, as in all of them, prayer has been made for grant of regular bail under Section 439 Cr.P.C in a case arising out of FIR No.13 dated 30.01.2019 registered under Sections 216, 302, 394, 395, 396, 397, 120-B IPC and under Section 25 of Arms Act, at Police Station Sector 20, Panchkula.

2. FIR in question was registered on the complaint of Vinod Kumar son of Pawan Kumar, resident of Sector 20, Panchkula, as per which, on 30.01.2019 at about 05:00/05:30 PM, he along with his 10-12 friends was playing cards in the showroom, in Sector 20, Panchkula, when 8-10 youths

entered the showroom, all carrying weapons. 2-3 of them opened fire at them and scared them by brandishing their pistols and asked them to hand over whatever cash or gold they had. Upon resistance by 2-3 of the complainant's companions, they were given beatings with the help of helmets. 2-3 of the intruders also fired shot at them. All of them took away all their cash, mobile phones, gold ornaments and fled away while firing upon them. One of the gun shot hit Sunny, who was taken to the hospital.

3. (i) Investigation was carried out. Spot was inspected. Empty cartridges, live cartridges, blood, mobile phones, driving licenses, helmets, LED and hard disc regarding CCTV footage, in which accused were captured from Katani Sweets near the place of occurrence, were taken into possession. Place of occurrence was also examined by team of scene of crime. On 31.01.2019, injured Sunny succumbed to the fire arm injury.

(ii) It was found during investigation that in case FIR No.95 of 2019 registered at Police Station Badapur, District Bijnor (UP) under Sections 302 and 307 IPC, accused Rohit had suffered disclosure statement to the Police that he along with Naveen, Hemant @ Lala, Vineet @ Vicky, Mohit and Sunil Kumar @ Rana had made the plan, as per which the dacoity was committed in the showroom of Panchkula by Kuldeep, Mohit and other boys, who had come from Delhi and that during the incident, one person had died. Hemant, Naveen and Sunil were arrested from time to time. Their disclosure statements resulted in recovery of some of the cash amount, mobile used in the crime and Swift car. It also emerged in the disclosure statement that planning to commit dacoity was made at House No.92, Sector 25, Panchkula. During further investigation, accused Jitender Kumar @ Jony (*petitioner of CRM-M-40835 of 2022*) was arrested on 09.06.2019.

Based on the disclosure statement suffered by him during investigation, ₹ 3,000/-, gold ring and one mobile was recovered from him. He also disclosed the names of other persons, who had entered the showroom to commit dacoity as Raj Pal Singh, Irfan, Atlaf and others. Raj Pal Singh (*petitioner of CRM-M-31621 of 2022*) was arrested on the same date i.e., 09.06.2019 and based on his disclosure statement, one mobile, ₹3,000/- and a sweat-shirt worn by him at the time of crime which was also evident in CCTV footage, were recovered. Atlaf Khan (*petitioner of CRM-M-43964 of 2022*) and Irfan were also arrested on the same day i.e., 09.06.2019 and recoveries of cash amount and mobile were made. During further investigation, test identification parade was conducted on 10.06.2019 before learned jurisdictional Magistrate, Panchkula, in which all four of them i.e., petitioners Jitender Kumar, Atlaf Khan and Raj Pal Singh, besides Irfan were identified by the complainant. Customer application forms of all the petitioners confirmed their location near the place of occurrence. During further investigation, Kuldeep @ Baba, Mohit and Mahesh were also arrested. Rest of the accused including Vinay are yet to be arrested.

4. Final report under Section 173 Cr.P.C was filed against Hemant alias Lala, Naveen, Sunil Kumar, Jitender Kumar (petitioner), Raj Pal Singh (petitioner), Irfan, Atlaf Khan (petitioner), Kuldeep, Rohit and Mohit. Charges were framed on 04.12.2020/23.12.2020. Out of 75 witnesses cited by the prosecution, about 30 are stated to have been examined.

5. It is submitted on behalf of the petitioners that they have been falsely implicated; that they are in custody for the last more than three years ten months; that co-accused Hemant alias Lala; Rohit, Naveen, Kuldeep and Mohit have already been allowed bail from time to time; that there is a long

list of witnesses out of which only 29 have been examined during long period of last three years and so, conclusion of trial is likely to take sufficient long time. It is also contended that the shot killing the deceased Sunny is not attributed to any of the petitioners. With these submissions, prayer for regular bail is made by all of them.

6. Strongly opposing the bail petition, learned State Counsel pointed out that all the three petitioners along with others participated in the crime by entering the showroom of complainant, where indiscriminate firing was done, resulting in one death and firearm injury to another for committing dacoity. It is submitted that most of the period after framing the charges was consumed in Corona phase, when restrictive hearing was taking place and so, prosecution cannot be faulted with for not concluding the evidence. Attention is further drawn towards the fact that all the three petitioners and one Irfan were identified in the test identification parade by the complainant. Their location of the place of occurrence was found with the help of customer application forms pertaining to their respective mobiles. The petitioners cannot be given the benefit of bail on the basis of parity, as role of the co-accused, who have been allowed bail, was different as attribution to them was to conduct *recce* or supply arms and who had not entered the showroom. Gravity of offence, which entails punishment up to death is also pointed out and with all these submissions, prayer for rejecting the petitions is made.

7. Having considered submissions of both the sides, this Court is of the view that petitioners do not deserve to be released on regular bail. As per the investigation, all the three accused were found to have participated in the crime by actually entering the showroom, where they along with other

companions indiscriminately fired shots with pistols, resulting in one death and fire-arm injury to other. They committed dacoity at the point of fire-arms. They were identified in the test identification parade conducted before learned Judicial Magistrate Ist Class. As far as grant of regular bail to the co-accused, namely, Hemant Kansal, Rohit, Naveen, Kuldeep alias Baba and Mohit is concerned, perusal of the bail orders pertaining to them would reveal that it was specifically observed that role attributed to them was in the nature of conspiring with the remaining accused inasmuch as they had conducted *recce* of the area and were present near the place of occurrence for doing help in case anything went wrong, when the other co-accused had barged into the showroom of the complainant but they had not actually entered the showroom. In these circumstances, the three petitioners cannot claim parity as attribution to them is entirely different. Apart from this, gravity of the offence cannot be ignored inasmuch as murder has been committed while committing dacoity. Most of the witnesses are yet to be examined. Possibility cannot be ruled out that petitioners may try to influence the witnesses, if enlarged on bail.

8. Having regard to the afore-said discussion, but without commenting anything on merits of the cases, all the three petitions are hereby dismissed. It is made clear that trial Court is not to be influenced by any observations made in this order, while deciding the case finally on the basis of evidence.

April 17, 2023

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(DEEPAK GUPTA)
JUDGE

Whether reasoned/speaking:	Yes/No
Whether reportable:	Yes/No