

214 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(1). **CRM-M-43566-2022**
Date of decision: 22.03.2023

Mahender ...Petitioner

Versus

State of Haryana ...Respondent

and

(2). CRM-M-695-2023

Ashish Alias Ashu ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Ajay Kripal Singh, Advocate
for the petitioner in CRM-M-43566-2022.

Mr. Varuna Singh, Advocate
for the petitioner in CRM-M-695-2023.

Mr. Vikrant Pamboo, DAG, Haryana.

NAMIT KUMAR, J. (ORAL)

This order shall dispose of two petitions CRM-M-43566-2022 and CRM-M-695-2023 as these petitions pertain to same FIR and for the sake of brevity facts are culled out from the petition CRM-M-43566-2022.

Petitioner(s) have filed the instant petition(s) under Section 439 Cr.P.C seeking regular bail in a case FIR No.133 dated 22.04.2022 under Sections 148/149/307/323/324/379-B/427/506 of IPC, 1860 and (Sections 195-A/201/120-B IPC added later on) registered at Police Station Bawani Khara, District Bhiwani. (Annexure P-1).

On issuance of notice of motion, learned State counsel has filed status report dated 20.03.2023 separately in both the cases, which are taken on

record. Copies thereof have been supplied to the counsel for the petitioner(s).

The case of the prosecution is that on 20.04.2022 at about 1.30 pm, complainant Amit along with Jitender @ Batlu and Pawan were travelling in his Bolero Camper bearing registration No.HR34G-0303 to village Biran and when they reached near drain of that village in the meantime a white camper came from side of village Ramupura which was being driven by Rahul and Rahul with intention to kill complainant directly hit his vehicle due to which vehicle of complainant was damaged from front side. Rahul, Ashok @ Maggu, Sachin, Mahender (petitioner in CRM-M-43566-2022) and Ashu (petitioner in CRM-M-695-2023) and three-four persons were present and having sword, Farsa and Binda. They attacked complainant with intention to kill him and caused injuries on the various part of his body. They also caused injuries to Jitender @ Batlu and Pawan. They damaged Bolero of complainant and also took away cash Rs.1,35,000/- and his mobile phone. They also extended threat to kill him.

Learned counsel for the petitioner(s) contends that the petitioner(s) are innocent and have been falsely implicated in the present case. No specific role has been attributed to the petitioner(s). He has also referred to the status report filed by the State particularly para No.7 thereof, wherein it has been averred that during the investigation the accused persons namely Ashish @ Ashu son of Krishan (petitioner in CRM-M-695-2023) and Mahender son of Sultan (petitioner in CRM-M-43566-2022), Ashok alias Magu son of Jagdish Chander, Sahil alias Tilu son of Rajesh and Sunil alias Golu son of Raj Kumar have joined the investigation on 27.06.2022 and arrested on the same day and they suffered their respective statements admitting their guilt and commission of offence. He further submits that the petitioner Mahender is in custody for the last 05 months and 17 days and the petitioner Ashish is in custody for the last 08 months and 23 days; investigation is complete; challan has been presented;

charges have been framed; out of total 21 witnesses 3 have been examined and the complainant has not appeared and his bailable warrants have been issued on 02.03.2023 before the trial Court. He further submits that the trial is likely to take considerable time to conclude, therefore, they may be released on regular bail as no fruitful purpose would be served by detaining them further in the custody.

Per contra, the learned State counsel has opposed the grant of bail to the petitioner(s) by stating that petitioner Mahender is involved in another case bearing FIR No.275 dated 12.10.2016 under Sections 323/147/149/427/506 IPC, PS Bawani Khera, Bhiwani although he is on bail in the said case. He further submits that no other case is pending against the petitioner Ashish. He could not deny the fact that the complainant is not appearing for recording of his statement before the Ld. Trial Court and has been summoned through bailable warrants and out of 21 total witnesses only 3 have been examined as yet. The next date of hearing before the trial Court is 02.05.2023 for prosecution evidence.

I have heard learned counsel for the parties and perused the record.

Keeping in view the custody period of the petitioner Mahender which is 05 months and 17 days and custody period of the petitioner Ashish is 08 months and 23 days; complainant has not appeared for recording of his statement before the Ld. Trial Court and has been summoned through bailable warrants; investigation is complete; challan has been presented; charges have been framed; out of 21 prosecution witnesses only 3 have been examined and the trial is likely to take considerable time to conclude. Therefore, further detention of the petitioner(s) may not serve any useful purpose, who are presently confined in judicial custody.

Resultantly, without meaning any expression of opinion on the

merits of the case, it is ordered that the petitioner(s) be released on regular bail subject to their furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

Accordingly, both the petitions stand disposed of.

22.03.2023
Parveen kumar

(NAMIT KUMAR)
JUDGE

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