

CRM-M-31558-2022
CRM-M-43813-2022

Neutral Citation No. 2023:PHHC:099267
Neutral Citation No. 2023:PHHC:099273

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

[Date of Decision: August 01, 2023]

1. CRM-M-31558-2022

Ravi @ Mintu ...Petitioner

Versus

State of Haryana ...Respondent

2. CRM-M-43813-2022

Om Prakash @ Mantak ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: - Dr. Deipa Singh, Advocate for the petitioner
in CRM-M-31558-2022.

Mr. Kunal Dawar, Advocate for the petitioner
in CRM-M-43813-2022.

Mr. Randhir Singh, Addl. A.G., Haryana.

Mr. G.C. Shahpuri, Advocate for the complainant.

DEEPAK GUPTA, J.

Prayer in both the petitions titled above is for grant of regular bail under

Hathin, District Palwal, under Sections 148, 149, 302, 452, 120-B/ 34 of the IPC; and Section 25 of the Arms Act, 1959.

FIR Version:

2. FIR was lodged on the complaint of Smt. Ramwati, as per which on 27.07.2019, she was doing domestic work at her home; whereas her son Anil (deceased) was lying on the cot in the varanda, when at about 7 p.m., three persons armed with weapons came there and sprayed bullets upon Anil. She identified Mantak @ Om Prakash S/o Tejpal (*petitioner in CRM-M-43813-2022*), who was accompanied by two other boys. One of the boys proclaimed that he was Ankit Pandit Dhamaka; whereas, another boy standing at the door was recognized by her to be Lalit S/o Sunder. She disclosed that four young boys, who were firing, ran away in a white colour car parked near the school. Anil was taken to the hospital, but was declared brought dead. It was further stated by Ramwati that his son had been murdered by Mantak @ Om Prakash and Ankit Pandit, resident of Dhamaka along with their friends, whose names she did not know.

Investigation:

3. (i) During investigation, physical evidence was collected. Rough site plan was prepared. 11 empty cartridges, 4 bullets and one live cartridge found from the spot, were taken into possession, besides blood-stained soil, clothes, rope etc. Postmortem examination on the dead body of Anil was got conducted.

(ii) On 15.10.2019, Ankit Pandit, Ankush S/o Raj Kumar; and Sunil @

Kishan were joined in the investigation after obtaining their production warrants on

the basis of disclosure statements made by them in case FIR No.118 of 2019, registered at Police Station Mahajan, Bikaner (Rajasthan), under Sections 307, 332, 353, 336, 34 IPC and all three of them confessed to have committed the crime of this case and individually demarcated the place of occurrence. They also disclosed that the respective pistols used by them in the crime had already been got recovered by them in the aforesaid case FIR No.118 of 2019, registered at Police Station, Mahajan, District Bikaner (Rajasthan). Ankit Pandit during his disclosure statements suffered on 15.10.2019 and 18.10.2019 revealed about the entire criminal conspiracy and disclosed the names of other persons involved in the crime and the roles played by them and the manner, in which the crime was committed. As per the revelation made by him, Ravi @ Mintu (*petitioner in CRM-M-31558-2022*) was the part of the planning/ conspiracy to kill Anil and at the time of crime, he was driving the fortuner car used in the crime and had helped the other accused by taking them away in that car after the crime. The above-named accused also disclosed the names of Parveen @ Jadugar, Ravi @ Mintu and Bhagat Singh to be the partners in the crime. Bhagat Singh is attributed to have given information to them about Anil.

(iii) On 16.11.2019, petitioner Ravi @ Mintu was arrested, who in his disclosure statement revealed that car used in the crime belonged to Parveen @ Jadugar and the same was being driven by him at the relevant time and that after the crime, he had returned the same to Parveen @ Jadugar. On 27.11.2019, accused Om Prakash @ Mantak was arrested. Parveen @ Jadugar was found to have already died. Bhagat Singh was arrested on 25.08.2020.

provided the location of deceased Anil through their WhatsApp calling; whereas Ankit Pandit, Ankush, Parveen @ Jadugar, Sunil @ Kheera and Ravi @ Mintu had gone to the place of occurrence in the fortuner car being driven by Ravi @ Mintu. As per investigation, Ankit Pandit, Ankush, Parveen @ Jadugar and Sunil @ Kheera are the persons, who had fired at Anil (deceased); whereas Ravi @ Mintu remained in the car as a driver. Bhagat Singh & Om Prakash @ Mantak had provided the location of Anil (deceased) through WhatsApp calling.

Contentions on behalf of petitioner Ravi & Mintu:

4. It is contended on behalf of petitioner Ravi @ Mintu that he is not named in the FIR and has been implicated solely on the basis of disclosure statement of co-accused, which is inadmissible under law. It is only Om Prakash @ Mantak and Ankit Pandit along with one unknown person, who are stated to have attacked the deceased, as per the FIR; whereas Lalit was standing at the door. Even in the disclosure statement of co-accused, on the basis of which petitioner is being implicated, the only role attributed to him is that he was driving the car, in which the assailants had run away and thus, petitioner is not attributed to any injury. It is further contended that as per final report submitted by the police under Section 173 Cr.P.C., there is nothing to show any connection of the petitioner with the co-accused nor any incriminating material has been collected to show the complicity of the petitioner, except the disclosure statement of the co-accused and that of the petitioner himself, which are inadmissible, having been extracted in police custody. No link evidence in the form of contact details, call details record, tower location etc. have been collected

to corroborate the version of the disclosure statement and thus, there are vital gaps in

the chain of connecting evidence. No recovery has been effected from the petitioner. Petitioner, who was allegedly driving the car, is neither the owner of the car nor the same was recovered from him. Still further, learned counsel has also drawn attention towards the statement of Smt. Ramwati made during trial, as per which, she had not identified the petitioner as the assailant and also disclosed that she was never asked by the Investigating Agency at any point of time to participate in any test identification parade. Petitioner has also given details of 20 criminal cases, in which he is involved but submitted that in 7 of those cases, he has already been acquitted; and that most of the rest of the offences are jail offences. With all these submissions, prayer is made for grant of bail.

Contentions on behalf of petitioner Om Prakash @ Mantak:

5. On behalf of petitioner Om Prakash @ Mantak, it is contended that the only role attributed to him, as per investigation is that he had provided information about the deceased to the main accused Ankit Pandit. Learned counsel has drawn attention towards the statement of the Investigating Officer made during trial, as per which petitioner was not found at the place of occurrence, when the deceased was murdered.

6. Both the petitioners have also pleaded about their long custody and that the trial may take time to conclude and prayed for grant of regular bail.

Stand of State Counsel:

7. Learned State counsel ably supported by learned counsel for the complainant, has strongly opposed the bail petition. It is contended that both the petitioners are part of gangs of criminals involved in numerous cases. Apart from the

criminal antecedents of the petitioners, specific role attributed to petitioner Om Prakash @ Mantak is to have sprayed bullets upon the deceased, as per eye witness account made by PW Ramwati during trial. Still further, it is argued that petitioner Ravi @ Mintu actively participated in the crime as he took the assailants to the place of crime and thereafter, brought them back in the same vehicle i.e., fortuner car. With these submissions, prayer is made for dismissal of the petitions.

8. I have considered submissions of both the sides and have perused the record carefully.

Court Analysis:

Qua petitioner Ravi @ Mintu -

9. As far as petitioner Ravi @ Mintu is concerned, the only role attributed to him is that he was driving the car, in which the assailants went to the place of occurrence and after committing the crime, the petitioner brought them back in the same car. The said role of the petitioner surfaced only in the disclosure statement of co-accused or that of the petitioner himself. It is conceded by learned counsel that except for the disclosure statements as above, there is no other material against the said petitioner. There is no corroborative material, inasmuch as no efforts appear to have been made to collect the call details record, tower location or any such scientific evidence to connect the petitioner with the crime or that he was present along with assailants at the relevant time. PW1 Ramwati has not identified the petitioner during trial. Petitioner is in custody since 16.11.2019. There are 40 witnesses cited by the prosecution. Case is at the stage of considering application under Section 319 Cr.P.C

other cases. However, it has been observed by the Hon'ble Supreme Court in case of ***“Maulana Mohd Amir Rashadi v. State of U.P.”, (2012) 3 382***, that merely on the basis of criminal antecedents, claim for bail cannot be rejected. The role of the accused is required to be seen in the case, in which his bail is being considered and criminal antecedent in itself cannot be a ground to reject the bail.

11. Having regard to all the aforesaid factual position, but without commenting anything on the merits of the case, the petitioner Ravi @ Mintu is admitted to regular bail. He is ordered to be released on his furnishing bail bonds and surety bonds to the satisfaction of learned Trial Court/Duty Magistrate concerned, by imposing stringent but reasonable conditions to ensure his presence during trial. As such petition N: CRM-M-31558-2022, qua petitioner Ravi @ Mintu, is allowed.

Qua petitioner Om Prakash @ Mantak –

12. As far as petitioner Om Prakash @ Mantak is concerned, his case is entirely on different footing. He was specifically identified by complainant Ramwati, as per FIR, to be present at the spot, who along with others sprayed bullets on deceased Anil. Even during her testimony as PW1, Smt. Ramwati specifically deposed those four persons came to the spot, out of whom she recognized Mantak, who started firing indiscriminately. It is stated by her that Mantak and two others were holding fire arms and that she had noticed Lalit standing outside the gate, holding weapon. She identified said accused Mantak in the Court to be amongst the assailants. During her cross examination, Smt. Ramwati further disclosed that assailants were not in the muffled faces; and that the house of Mantak @ Om Prakash

13. In the face of aforesaid statement made by PW1 Ramwati, there is no reason at this stage to give any weightage to the statement of the Investigating Officer or to the report under Section 173 Cr.P.C. that as per investigation, Om Prakash @ Mantak had only supplied the information to the other assailants regarding the location of the deceased or that he was not found at the spot. There is nothing on record to suggest that said conclusion of Investigating Agency is based on any concrete evidence. So, at this stage, this Court has no reason to disbelieve the testimony of PW1 Ramwati.

14. In view of the aforesaid facts and circumstances, but without commenting anything on the merits of the case, petitioner Om Prakash @ Mantak is held to be not entitled to grant the benefit of regular bail. As such, petition i.e., CRM-M-43813-2022 qua petitioner Om Prakash @ Mantak, is dismissed.

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

August 01, 2023

sarita

(DEEPAK GUPTA)

JUDGE

Whether reasoned/speaking: Yes/No

Whether reportable: Yes/No