

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

CRM-M-44768-2022

Date of Decision: 25.04.2023

Gurpreet Singh

..... Petitioner

Versus

State of Haryana

.....Respondent

CRM-M-48722-2022

Rajat

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Randeep S. Dhull, Advocate and
Mr. Sidharth Tanwar, Advocate, for the petitioners.
Mr. B.S. Virk, Deputy Advocate General, Haryana.

Rajesh Bhardwaj, J. (ORAL)

This order will dispose of above-mentioned petitions, as both have arisen out of a common FIR.

Prayer in the present petitions is for the grant of regular bail to the petitioners in a case FIR No.232 dated 15.09.2021, registered under Sections 379-B, 392, 397 IPC and Section 25 of Arms Act, 1959, at Police Station Pehowa City, District Kurukshetra.

As per facts of the case, statement of Preeti wife of Puneet Puri was recorded before the Police, wherein, it was alleged that on 15.09.2021 at about 5:30 a.m., when she was walking alongwith her husband, two boys came riding on motorcycle and they brandished their weapon towards them. They threatened to handover her jewelry, failing which they would be shot by them. Being afraid, she handed over her chain and earrings. It was

alleged that both the boys were with muffled faces and thus, they could not identify them. A request was made to take legal action against the accused. On the basis of the complaint, the FIR was lodged and the investigation commenced. Both the petitioners were already behind bars in some other case and they were arrested in this case on production warrants on 10.12.2021. Both of them approached the Court of learned Additional Sessions Judge, Kurukshetra, praying for grant of bail and who after hearing both the sides declined the same vide orders dated 08.08.2022 and 15.09.2022. Aggrieved by the same, the petitioners have approached this Court praying for grant of bail by way of filing the present petitions.

It has been vehemently contended by learned counsel for the petitioners that the petitioners have been falsely implicated in this case. They have submitted that as per the allegations in the FIR, both the accused were with muffled faces and the complainant alleged that she could not recognize both the accused, who snatched her jewelry. They submit that the petitioners were already behind bars and they were implicated in this case on false and frivolous allegations. It is further submitted that though petitioner Gurpreet Singh facing prosecution in three other cases, however, he has already been granted bail by the Court and so far accused Rajat is concerned, he is facing prosecution in two more cases. To buttress their arguments, they submit that the investigation is complete and charges are framed and the trial Court has already examined the complainant as PW-3 and her husband as PW-4. They submit that both these material witnesses have not supported the case of the prosecution, hence, both of them have been declared hostile. They have submitted that once the witnesses of occurrence have not been able to identify the accused and declared hostile,

false implication of the petitioners is writ large. It is further submitted that the petitioners are behind bars since 10.12.2021 and material witnesses have already been examined and there cannot be any apprehension that the petitioners are in a position to influence the victim. It is submitted that in the facts and circumstances of the case, the petitioners deserve to be granted bail.

On the other hand, learned State counsel has opposed the submissions made by learned counsel for the petitioners and has submitted that though the petitioners were not named in the FIR, however, during investigation their complicity was established. It is submitted that the jewelry was recovered from the petitioners. He has submitted that the petitioners are habitual offender as they are facing prosecution in similar type of cases, however, they have been granted bail by this Court in those cases. On instructions, he has submitted that out of total 21 prosecution witnesses, 8 witnesses have already been examined including the complainant and her husband and both of them have not supported the case of the prosecution.

Heard.

Evidently, the petitioners are behind bars since 10.12.2021. As per the allegations made by the complainant, accused were with muffled faces and hence, she could not identify them. The complainant and her husband have been examined by the learned trial Court as PW-3 and PW-4 respectively, wherein they have deposed before the Court that the accused present in the Court were not the same persons who committed offence. Though the petitioners are facing prosecution in other cases as well, however, as submitted before this Court, they are on bail in those cases. The

material witnesses as submitted before this Court have not supported the case of the prosecution. The veracity of the allegations would be evaluated by the trial Court only after appreciation of complete evidence to be led by both the parties before it. This Court would refrain itself from commenting anything on the merits of the case, however, considering the prayer for grant of bail to the petitioners, I am of the view that learned counsel for the petitioners have been able to make out a case for grant of regular bail to the petitioners. The trial would take sufficiently long time for its conclusion.

Accordingly, the present petitions are allowed and the petitioners are ordered to be released on bail to the satisfaction of the concerned trial Court/Duty Magistrate.

Nothing said herein shall be treated as an expression of opinion on the merits of the case.

25.04.2023
sharmila

Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No