

CRM-M-44670-2023

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(221)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-44670-2023
Date of Decision: 15.12.2023

SAURABH @ NAARIKA

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CRM-M-50163-2023

RAHUL

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Ramnish Puri, Advocate
for the petitioner in CRM-M-44670-2023.

Mr. R.N. Lohan, Advocate
for the petitioner in CRM-M-50163-2023.

Mr. Kanwar Sanjiv Kumar, Asstt. A.G., Haryana.

JASJIT SINGH BEDI, J.

This order shall dispose of two petitions bearing No.CRM-M-44670-2023 titled as Saurabh @ Naarika Versus State of Haryana and CRM-M-50163-2023 titled as Rahul Versus State of Haryana as the same are arising out of the same FIR. However, for the sake of convenience the facts have been taken from CRM-M-44670-2023.

2. The prayer in the present petitions under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.56 dated 28.01.2023

registered under Sections 201, 302, 323, 34 of the IPC at Police Station Jind City, District Jind.

3. The present FIR came to be registered at the instance of Ajmer son of Zile Singh who stated that on the date of the occurrence, he received information that his son Rohit alias Golu (deceased) had been stabbed by many boys and had been taken to Civil Hospital, Jind for treatment where the doctor had declared him dead. On receiving this information, he and his brother Jagbir, Dilbag and others went to the Civil Hospital, Jind and found the dead body of his son. The friends of his son namely, Mohit alias Perry son of Krishan and Nitin son of Menpal disclosed that on 28.01.2023, all three of them (Mohit alias Perry, Nitin and Rohit alias Golu-deceased) were sitting at the mall having tea. One unknown boy and girl were sitting there. All the three laughed on some matter but the unknown boy assumed that he was being taunted by them (Mohit alias Perry, Nitin and Rohit alias Golu-deceased). Annoyed by this, the unknown boy called his 8/10 friends who came to the spot and started quarreling with them (Mohit alias Perry, Nitin and Rohit alias Golu-deceased). They (Mohit alias Perry, Nitin and Rohit alias Golu-deceased) had run away from the spot but Rohit alias Golu had been chased by one boy having a brick in his hand, another with a pipe in his hand and third with a knife in his hand. They had all caused injuries to Rohit alias Golu (deceased). After this, they (Mohit alias Perry and Nitin) had taken Rohit alias Golu to Government Hospital, Jind where he had been declared dead. On questioning, it was found that the boys who had committed the

offence had come on motorcycles bearing Nos.HR-31E-8493 and HR-33C-7028 and 5570.

4. During the course of investigation, the names of all the accused persons came up. As per the prosecution case, Shubham alias Anda son of Raj Kumar armed with a knife, Sandeep son of Baljeet armed with a brick and Sagar @ Chhottu armed with a pipe had inflicted injuries on the deceased. The petitioners came to be nominated in the disclosure statement of Sandeep.

5. The learned counsels for the petitioners contend that the petitioners have been falsely implicated in the present case. Even as per the case of the prosecution, no specific injury had been attributed to the petitioners. In fact, it was a case of sudden occurrence on the spur of the moment and only the actual assailants could be held to be liable and not the petitioners. Even otherwise, the postmortem would show that the fatal injuries were caused by a knife blow attributed to the Shubham alias Anda and the other injuries were merely abrasions/lacerated wounds also attributable to Sandeep and Sagar @ Chhottu. As the petitioners were in custody since 18.02.2023 and 30.03.2023 respectively and none of the 42 prosecution witnesses had been examined so far, the Trial of the present case was not likely to be concluded anytime soon and therefore, the petitioners were entitled to the concession of bail.

6. The learned counsel for the State while referring to the replies dated 18.10.2023 and 28.11.2023 (already filed and on record in both the connected petitions) contends that all the accused including the petitioners

assaulted the deceased on a trivial issue and therefore, the nature of the allegations levelled against the petitioners did not entitle them to the grant of bail. He, however, concedes that the injuries were specifically attributed to Shubham alias Anda, Sandeep and Sagar alias Chhottu, that the petitioners were in custody since 18.02.2023 and 30.03.2023 respectively and that none of the 42 prosecution witnesses had been examined so far.

7. I have heard the learned counsel for the petitioners.

8. The veracity of the prosecution case against the petitioners and their co-accused shall be adjudicated upon during the course of Trial. Admittedly, the petitioners are in custody since 18.02.2023 and 30.03.2023 respectively and none of the 42 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. In this situation, their further incarceration is not required.

9. Thus without commenting on the merits of the case, the present petitions are allowed and the petitioners are ordered to be released on bail on their furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

10. The petitioners shall appear before the police station concerned on the first Monday of every month till the conclusion of the Trial and inform in writing each time that they are not involved in any other crime other than the present case.

11. If the petitioners or their family members/associates make any attempt to contact/threaten/intimidate the witnesses in the present case, the

State would be at liberty to move an application for cancellation of bail granted vide this order.

12. In addition, the petitioners (or anyone on their behalf) shall prepare an FDR in the sum of Rs.1,00,000/- each and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioners from Trial the without sufficient cause.

13. The petitions stand disposed of.

(JASJIT SINGH BEDI)
JUDGE

15.12.2023

JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No