

231 (2 cases)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 04.10.2023

CRM-M-45798-2023(O&M)

Sagar Singh

VS

State of Punjab

...Petitioner

...Respondent

CRM-M-45820-2023(O&M)

Sandeep Singh @ Deepu

VS

State of Punjab

...Petitioner

...Respondent

CORAM:

HON’BLE MR.JUSTICE ARUN MONGA

Present:

Mr. S.S.Grewal, Advocate,

Ms. Prabhnoor Kaur Bains, Advocate,

Mr. Kapil Mohan Singla, Advocate

For the petitioners.

Mr. Mohit Thakur, AAG, Punjab.

ARUN MONGA, J. (ORAL)

Vide this common order, above mentioned two bail petitions, arising out of same FIR, are being disposed of.

2. Aggrieved on being declined bail by learned trial Court, petitioners seek their release as undertrial in a case bearing FIR No.38 dated 21.06.2023, registered under Sections 379-B (2), 323, 506, 148 read with Section 149 of the Indian Penal Code, 1860 (for short ‘IPC’)at Police Station, Lakhewali, District Sri Muktsar Sahib.

3. Aforesaid First Information Report (FIR) has been lodged based on the statement of the complainant, Parveen Kumar, who claimed to be engaged in agricultural work. On June 20, 2023, he and his son, Sumit Kumar, were returning to their village, Mahuana, from Sri Muktsar Sahib on a motorcycle, passing through the village Bhagsar-Lakhewali. At approximately 4:50 p.m., when they were about two kilometers away from Lakhewali, a group of individuals on 2-3 motorcycles, their faces concealed and armed with dangerous weapons, intercepted them and demanded they stop. One of the individuals, riding a motorcycle without a registration number, positioned it in front of Parveen Kumar's motorcycle, brandished a weapon, and

began assaulting both Parveen Kumar and his son. They also forcibly took Sumit Kumar's Apple iPhone and Rs. 3000 in cash from his pocket. During this ordeal, the face of one of the assailants became visible, and Sumit Kumar identified him as Husanpreet Singh from their own village, along with others, including Sajan Singh. Passersby started gathering at the scene, prompting the assailants to flee. Upon further inquiry, Parveen Kumar learned the identities of the culprits, including Husanpreet Singh alias Sunny, Sandeep Singh alias Baba, Sajan Singh, Sagar Singh (petitioner in CRM-M-45798-2023), Baljinder Singh alias Toti, Sandeep Singh alias Deepu (petitioner in CRM-M-45820-2023), Jindu, and Sattu. Subsequently, the petitioners were arrested on June 21, 2023, and have been in custody since then.

4. Learned counsel for the petitioners contends that the petitioners are football players who used to play with the complainant's son. On the day of the incident, the petitioners, along with other co-accused individuals and the complainant's son, were playing football in the village ground. During the game, an argument ensued, and all of them moved onto the road, where the complainant also arrived. The complainant's son informed him that he had been assaulted by the petitioners. In response, the complainant threatened the petitioners, vowing to teach them a lesson. The following day, the complainant falsely implicated the petitioners in this case.

4.1 It is further submitted that petitioner Sagar Singh is a second-year B.A. student, and petitioner Sandeep Singh, known as Deepu, is a 12th-grade student who has never engaged in any illegal activities. It is further emphasized that the incident occurred on June 20, 2023, but it was not reported to the police until the following day, June 21, 2023, at noon, without any explanation for the delay. Moreover, the complainant did not reveal the source of his information regarding the involvement of the petitioners in the crime, and he was unable to identify the individuals due to their concealed faces. The petitioners have no connection whatsoever to the allegations made by the complainant and have been falsely accused as a result of a personal vendetta.

4.2 The counsel for the petitioners also points out that nothing incriminating has been recovered from the petitioners. Furthermore, even after their arrest, no identification parade *qua* the petitioners have been conducted to link them to the alleged crime. This, it is argued, has been done intentionally, as the petitioners are not involved in any theft activities. The stolen cell phone belonging to the complainant was not found in possession of the petitioners but was, as admitted, recovered from Hussanpreet, who is already in custody.

5. On the other hand, learned State counsel opposes the bail petition. He submits that allegations against the petitioners are serious in nature. Recovery of one wooden log used in the commission of offence was also effected from the possession of the petitioners. In case, petitioners are granted concession of bail, there are chances of their fleeing from trial proceedings. He, however, submits that no other case is pending against them.

6. I have heard rival contentions of learned counsels for the parties and gone through the case file.

7. On a Court query, under instructions from ASI Satish Kumar, learned State counsel informs that after filing of challan, charges were framed on 29.09.2023. Investigation *qua* petitioners is complete, they are thus not required for custodial interrogation. Out of 22 prosecution witnesses, none has been examined so far.

8. Allegations against the petitioners are matter of trial at this stage. Commencement/conclusion of trial is still likely to take long time. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Whereas, petitioners have already been languishing in jail for the past more than 03 months, being behind bars since 21.06.2023.

9. Investigation *qua* petitioners is over but they are being kept in preventive custody merely on an unfounded suspicion that if they are let out, they may either tamper with evidence and/or influence witnesses.

10. Petitioner Sagar Singh is stated to be 23-year old unmarried person whereas petitioner Sandeep Singh @ Deepu is stated to be 18-year old young boy.

They are on the cross-roads of their career. Having family to look after, fixed abode and clean antecedents, it is unlikely that they pose any flight risk and/or will flee from trial proceedings.

11. Considering the overall scenario, without commenting on merits of the case, the instant petitions are allowed. I am of the view that no useful purpose would be served to keep petitioners in further preventive custody.
12. Accordingly, petitioners are ordered to be released on bailon their furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where their cases are being tried and in case he/she is not available, before learned Duty Judge, as the case may be.
13. In case, petitioners are found involved or get involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of their bail in the instant cases.
14. It is made clear that any observations and/or submissions noted hereinabove shall not haveany effect on merits of the cases as the same are for the limited purpose of bail hearingalone and learned trial Court shall proceed without being influenced with thisorder.
15. Pending application(s), if any, shall also stand disposed of.
16. A photocopy of this order be placed on the connected case file.

(ARUN MONGA)

JUDGE

04.10.2023

Vandana

Whether speaking/reasoned:

Whether reportable:

Yes/No

Yes/No