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

I) CRM-M-59086-2022 (O&M)

Rahul S/o Vinod ...Petitioner

Vs.

State of U.T. Chandigarh ...Respondent

II) CRM-M-11132-2022 (O&M)

Rahul S/o Bhagelu Ram ...Petitioner

Vs.

State of U.T. Chandigarh ...Respondent

Date of decision-04.01.2023

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Ms. Amrita Nagpal, Advocate,
for the petitioner in CRM-M-59086-2022.

Mr. Mohan Singh Chauhan, Advocate,
for the petitioner in CRM-M-11132-2022.

Mr. Deepinder Brar, Addl. P.P. U.T. Chandigarh
assisted by ASI Rakesh Kumar.

MANOJ BAJAJ, J. (Oral)

CRM-34771-2022 in CRM-M-11132-2022

Application is allowed and statement of Naresh Kumar son of
Dharambir, Annexure P-3 is taken on record.

Main Case

Petitioners have filed these separate petitions under Section 439 Cr.P.C. for grant of regular bail pending trial in case FIR No.0025 dated 11.02.2018 registered under Section 302/34 of Indian Penal Code at Police Station Mauli Jagran, Chandigarh, who were arrested on 12.02.2018.

The contents of the FIR as noticed by the learned Additional Sessions Judge, Chandigarh in order dated 12.02.2019 while deciding the bail application of accused Rahul S/o Vinod read as under:-

“Brief facts for the disposal of the present bail application are that the above said case was registered on the basis of complaint of Laxman Sahu that his brother Pawan Sahu alongwith his younger brother Roshan aged 13 years was residing in Mauli Jagran Chandigarh and working at hotel in Panchkula. His younger brother Rohan called him telephonically and told that Pawan did not return home from his work. Thereafter, he went to Mauli Jagran and came to know that in the intervening night of 10/11.2.2018 at about 12.30 a.m that 3-4 unknown boys attacked on his brother with intervention to kill him near Community center, Vikas Nagar, Mauli Jagran and police took his brother Pawan to GMCH Sector 32, Chandigarh where he was declared brought dead. Upon the complaint, FIR was got registered u/s 302, 34 IPC. During the course of investigation juvenile Rahul was apprehended on 12.2.2018.”

Learned counsel for the petitioners have argued that as per case of prosecution, the petitioner along with his co-accused committed the murder of Pawan Sahu, brother of complainant Lakshman Sahu. It is further

submitted that as per the allegations contained in the FIR, only missing report of the victim was mentioned by the complainant and the occurrence is not witnessed by anyone and case of the prosecution is based upon circumstantial evidence. According to the learned counsel, the petitioners are in custody for last approximately 5 years, but the trial is yet to conclude as ten witnesses still remain to be examined. They pray for grant of regular bail.

The prayer is opposed by learned counsel for U.T. Chandigarh, who has argued that the alleged occurrence was captured in CCTV footage from where the accused were identified, and after their arrest, mobile phone of victim was recovered from accused Rahul son of Bhagelu Ram, and the weapon of offence (knife) was recovered from co-accused Raju-juvenile. However, it is not disputed by learned counsel for U.T. Chandigarh that out of total 31 witnesses, ten witnesses still remain to be examined. Learned counsel for U.T. Chandigarh has pointed out that the trial of juvenile ended in his conviction through judgment dated 31.05.2022.

After hearing the learned counsel for the parties and considering the above background including the length of the custodial period of the petitioners, this Court is of the considered opinion that their further detention behind the bars may not be justified, particularly when the material witnesses are police officials and at present, there does not seem any possibility of their being won over.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioners be released on regular

bail subject to their furnishing the requisite bail bonds and surety bonds to the satisfaction of the trial Court concerned.

The petitions are allowed.

(MANOJ BAJAJ)
JUDGE

04.01.2023
geeta

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No