

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Reserved on:14.02.2024
Pronounced on:15.02.2024

1. CRM-M-1198 of 2024

RakeshPetitioner

Vs.
State of HaryanaRespondent

2. CRM-M-1215 of 2024

PankajPetitioner

Vs.
State of HaryanaRespondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Sukesh Kumar Jindal, Advocate
for the petitioner in CRM-M-1198 of 2024.

Mr. Ashish Rana, Advocate for the petitioner
in CRM-M-1215 of 2024.

Mr. Sumit Jain, Addl. AG, Haryana.

DEEPAK GUPTA, J.

In the two petitions titled above, both filed under Section 439 Cr.P.C., petitioners pray for their release on regular bail in case FIR No.610 dated 15.10.2022 registered under Section 365 IPC at Police Station Tehsil Camp, Panipat [Section 120B, 302, 379B, 365, 392, 397 & 201 IPC and Section 25 / 27 of Arms Act, 1959 added later on].

2. Separate status reports in both the cases have been filed by the respondent- State.

3.1 It is revealed from the Status reports that Mohit Soni (deceased) used to run Breeza Car No.HR-06BA-5560 as taxi. On 14.10.2022, at about

07:30 PM, after getting a booking through phone call, he left for Rasalpur.

On reaching there, he informed his father – complainant – Rajender Singh that a passenger had transferred an amount of ₹290/- online in his account and had booked his car and that he was taking them to District Jhajjar. After reaching Bohalgarh, the location of Mohit Soni was not traceable. Rajender Singh, father of Mohit Soni lodged the FIR by stating that someone after booking the vehicle of his son had kidnapped him along with the vehicle and that mishap had taken place after hiring of the vehicle in Village Rasalpur. It was also disclosed by Rajender that his missing son was having mobile No.70271-71347, on which he had received booking of the car from mobile No.88169-94560. FIR was initially registered under Section 365 IPC.

3.2 On 16.10.2022, information was received that dead body of an unknown boy was kept in Mortuary of Civil Hospital, Sonapat. Accompanied by Ankit, the brother of Mohit Soni, IO reached there. Ankit identified the dead body to be of his missing brother Mohit Soni. Proceedings under Section 174 Cr.P.C were conducted. Post mortem examination revealed the reason of death was fire-arm injury. Section 392 and Section 302 of IPC and Section 25 of the Arms Act were added.

3.3 Call detail records and the customer application forms of mobile No.88169-94560, from which the booking of the car was made on the mobile of the deceased, was collected and perusal thereof revealed that said number had been issued in the name of Amzad Ali son of Hanif, who was joined in the investigation on 28.10.2022. Said Amzad Ali disclosed that he had got issued the above-said number on his ID and had kept the same in the cover of his phone. In the first week of October 2022, he had gone to the shop being run in the name of Om Mobile Phone, Jangra Market, Panipat for change of glass and cover of his mobile and, thereafter, never

used the SIM and that he suspected that owner of the shop while changing the glass and cover of his mobile phone had discreetly taken out the sim.

3.4 Based on the above statement of Amzad Ali, Pankaj son of Bhopal (*petitioner in CRM-M-1215 of 2024*), the owner of mobile shop was joined in the investigation and arrested on 28.10.2022. On interrogation, he suffered disclosure statement admitting to have taken out the sim while changing the glass and cover of mobile phone of Amzad Ali and that he had provided the same to accused Rakesh son of Naresh (*petitioner in CRM-M-1198 of 2024*) and co-accused Sachin alias Pandit, and Ashok s/o Zile Singh and thereafter, all of them hatched a conspiracy to loot some taxi after hiring it. Pursuant to the disclosure statement of co-accused Pankaj, Rakesh alias Rinku was arrested on 30.10.2022.

3.5 Co-accused Sachin alias Pandit son of Naresh, Ashok son of Zile Singh and Dayanand @ Sonu son of Ramphal were already under arrest in another case and were taken on production warrants and with permission of the Court were arrested in this case on 09.12.2022. All these accused suffered disclosure statements admitting their involvement in the crime and disclosed the manner in which the crime was committed. Recovery of Breeza Car No.HR-06BA-5560 of the deceased Mohit Soni and also that of the phone used in the crime was effected pursuant to disclosure made the petitioner – Rakesh; whereas recovery of mobile phone of deceased was effected at the instance of co-accused Dayanand. Co-accused Ashok got recovered ₹3,000/-. Co-accused Ashok disclosed that country-made pistol used in the crime has already been got recovered by him in case FIR No.257 dated 21.11.2022 registered at P.S. Sanoli, District Panipat under Sections 186, 332, 353, 307, 34 IPC and Section 25 of the Arms Act.

3.6 The disclosure statements of both the petitioners, i.e. Pankaj and

Rakesh and that of co-accused revealed that Rakesh's brother Rajender had abducted a girl from Panipat, due to which said Rajender was confined in Panipat jail. Petitioner – Rakesh used to come to Panipat for his brother's case and during that time, he became friends with co-accused Sachin alias Pandit, Dayanand alias Sonu and Ashok. Petitioner – Rakesh needed money to defend his brother's case and get it compromised and he told these facts to the co-accused, who also needed money. All of them planned to book a car, assault the car driver, snatch the money and car and after that they will commit robbery in the snatched car and that by selling the snatched car, they will divide the entire money amongst them. The three co-accused also told Rakesh that they required a forged sim to implement the plan. Rakesh told that he had a friend by the name of Pankaj, who was running mobile phone shop. Petitioner – Rakesh shared the plan with his friend – co-accused Pankaj, who then provided a mobile phone and forged sim to Pankaj, who further gave the same to co-accused Dayanand alias Sonu, Sachin alias Pandit and Ashok. Thereafter, these three co-accused i.e. Dayanand alias Sonu, Sachin alias Pandit and Ashok booked a car for District Jhajjar on 14.10.2022 by inserting forged sim in the mobile phone provided by petitioner – Rakesh. Sachin alias Pandit booked the car. The car was called at Village Rasalpur. The three accused shot the car driver dead and snatched his money and car and told these facts to Rakesh, who further told the same to Pankaj.

4. It is contended by learned counsel appearing for the petitioner – Rakesh that said petitioner is not involved in actual killing of Mohit Soni nor was present at the scene of crime, when Mohit was murdered, as it is three co-accused - Dayanand alias Sonu, Sachin alias Pandit and Ashok, who committed the murder of Mohit Soni after hiring the car. Learned counsel

contends that the only implication of the petitioner – Rakesh is to the extent of part of conspiracy under Section 120-B IPC and that conspiracy was not to kill Mohit Soni. Learned counsel further contends the petitioner – Rakesh is in custody for the last more than 14 months; that there is long list of prosecution witnesses; that trial may take long time to conclude and so, he be allowed bail.

5. On behalf of petitioner – Pankaj, it is contended by learned counsel that only role attributed to this petitioner is that he had arranged a sim to co-accused, which was used for calling the deceased by the co-accused; that name of the petitioner has surfaced in the disclosure statement of the co-accused only; that petitioner was not involved in the commission of crime of murder and in these circumstances, he be allowed bail, being in custody for a period of more than 14 months and as trial is likely to take long time to conclude.

6. Opposing both the petitions, learned State Counsel though concedes that as per the investigation, it is co-accused Dayanand alias Sonu, Sachin alias Pandit and Ashok, who after hiring the car of the deceased, murdered Mohit Soni, but it is contended that both the petitioners were part of conspiracy. Learned State Counsel further submits that case is dependent upon circumstantial evidence and that material witnesses are yet to be examined and looking into the gravity of the offence, the petitioners do not deserve to be released on bail.

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

8. This is true that as per the investigation, it is co-accused Dayanand alias Sonu, Sachin alias Pandit and Ashok, who hired the car from the deceased and committed his murder. However, at the same time,

investigation revealed that both the petitioners were part of conspiracy so as to snatch/ rob the car and money, sell the car and share the money. Said fact is evident from the disclosure statements of two petitioners also that they were well aware of the entire plan. It will be a matter of trial as to what extent these disclosure statements are admissible.

9. As far as contention of learned counsel for the petitioners to the effect that at the most, they were part of conspiracy and were not actually present at the scene of crime, it contains no force at this stage because even the offence of conspiracy under Section 120-B IPC is punishable in the same manner, as if they had abetted the offence. For the sake of arguments, even if it be assumed that the petitioners were part of conspiracy only to the extent of robbing/ snatching the car of the deceased, Section 111 of the IPC provides that when act is abetted and a different act is done, the abettor is liable for the act done in the same manner and to the same extent, as if he had directly abetted it, provided the act done was a probable consequence of the abetment and was committed under the influence of instigation or with the aid or in pursuance of the conspiracy which constituted the abetment.

10. In this case, as per petitioners, they were at the most part of conspiracy to rob/snatch the car and then to share the money by selling the snatched car. It will be a matter of trial as to whether the offence of murder of the taxi driver i.e. Mohit Soni has been done as a probable consequence of the conspiracy to rob/ snatch the car. At this stage, until the evidence is produced on record, such probability cannot be ruled out.

11. Even otherwise, the offence of snatching and robbing in itself are quite grave. Offence for committing robbery under Section 392 IPC to be read with Section 397 IPC is punishable up to 14 years. Similarly, offence under Section 379-B IPC is punishable with 14 years imprisonment, with

minimum sentence of ten years in Haryana.

12. Having regard to all the afore-said facts and circumstances but without commenting upon the merits of the case, this court is not inclined to allow the benefit of bail to the petitioners.

Both petitions are dismissed.

February 15, 2024

renu

Whether Speaking/reasoned

Whether Reportable

(DEEPAK GUPTA)

JUDGE

Yes/No

Yes/No