

CRM-M-1297-2024,
CRM-M-59382-2023 and CRM-M-8436-2024

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2024:PHHC:048686

201+202

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision: 10.04.2024

(I) CRM-M-1297-2024

LEKH RAJ ALIAS LEKHU

...Petitioner

VERSUS

STATE OF HARYANA

...Respondent

(II) CRM-M-59382-2023

YOGESH KUMAR

...Petitioner

VERSUS

STATE OF HARYANA

...Respondent

(III) CRM-M-8436-2024

ROHIT RANA

...Petitioner

VERSUS

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Deepender Singh, Advocate
for the petitioner in CRM-M-1297-2024.

Mr. Ashish Bansal, Advocate
for the petitioner in CRM-M-59382-2023.

Mr. J. S. Dhaliwal, Advocate
for the petitioner in CRM-M-8436-2024.

Mr. Gaurav Jindal, Addl. A.G., Haryana.

Mr. Ajay Rawat, brother of the deceased in person.

JASGURPREET SINGH PURI, J. (Oral)

1. All the three petitions are taken up together for final disposal with the consent of learned counsel for the parties since all the three petitions arise out of the same FIR and the prayer in all the three cases is for grant of regular bail.
2. All the three petitions have been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioners in FIR No.345 dated 31.08.2021, under Sections 147, 148, 302, 323, 506 of the IPC and Section 25/54/59 of the Arms Act (Sections 364, 212 of the IPC and Sections 30 and 54 of the Arms Act added later on), registered at Police Station Ballabgarh Sadar, District Faridabad, Haryana.
3. CRM-M-1297-2024 and CRM-M-59382-2023 are the second petitions, whereas CRM-M-8436-2024 is a third petition and as per the learned counsels for the petitioners, all the earlier petitions were dismissed as withdrawn.
4. The present FIR was lodged on the basis of a complaint made by one Dharmender by alleging that on the occasion of Janmashtmi, he had brought a pot of curd i.e. dahi ki matki from Vrindavan and was offering the same at Shiv Mandir, Bhatpura Road, Sotal. When he along with his family members was present at the temple, then Om Parkash, Naveen and his family members had already offered a pot of curd at the temple prior to them. At that point of time, co-accused Narvir @ Sonu, who was with Om Parkash was having a pistol in his hand, Tej Pal @ Changa was having a farsa in his hand, Kanwarpal @ Bholi was having a lathi in his hand, Om Parkash @ Babbar was

having a sword in his hand, Naveen @ Nanga was having a farsa in his hand, Rohit Rana (petitioner in CRM-M-8436-2024) was having a danda in his hand, Yogesh (petitioner in CRM-M-59382-2023) was having a danda in his hand, Lekhu (petitioner in CRM-M-1297-2024) was having a danda in his hand, Chander Bhan was having a danda in his hand, Surya Dev was having a danda in his hand and Manoj was having a danda in his hand. They in connivance with each other were ready in advance for quarrel and fight. Thereafter, Chander Bhan threatened Dharmender to kill him and abused him and said that today a lesson would be taught to him and Dharmender with folded hands was taken away by his family members from the spot. In the meanwhile, Dharmender (the complainant) and his son Pushpender, Pardeep, Jeetu and Bahadur were following the rest of their family members on their way back. Dharmender was not aware that Bhupender was left behind them. All of aforesaid accused covered the mouth of Bhupender and forcibly took him in the paddy fields. When they moved few steps ahead of the temple they heard a noise of fire shot and when they turned back and ran towards the place from where the sound of fire shot had come, then they saw that all of them were beating Bhupender. When they tried to rescue him, all of the aforesaid accused attacked them. Thereafter, injuries were inflicted upon Pushpender, Pardeep, Jeetu and the complainant and the aforesaid accused threatened them that today they have been saved and they will see them later on. Thereafter, when they lifted Bhupender from the paddy fields, he told them that all of them had covered his mouth and forcibly dragged him. Bhupender also told that Narvir @ Sonu had fired shot on him and all the above persons had attacked him with weapons

which they were holding in their hands. Thereafter, Bhupender became unconscious and was taken to a hospital, where he was declared dead by the doctors.

5. All the learned counsels for the petitioners have stated that all the three petitioners are in custody for about 2 ½ years. So far as Lekh Raj alias Lekhu (petitioner in CRM-M-1297-2024) is concerned, he is stated to be in custody for 2 years, 5 months and 20 days, Yogesh Kumar (petitioner in CRM-M-59382-2023) is stated to be in custody for 2 years, 5 months and 20 days and Rohit Rana (petitioner in CRM-M-8436-2024) is stated to be in custody for 2 years, 5 months and 20 days as well. So far as the antecedents of all the three petitioners are concerned, the learned counsels for the petitioners have submitted that so far as Lekh Raj alias Lekhu (petitioner in CRM-M-1297-2024) and Yogesh Kumar (petitioner in CRM-M-59382-2023) are concerned, they are not having any criminal antecedents and they are not involved in any other case, whereas so far as Rohit Rana (petitioner in CRM-M-8436-2024) is concerned, he is involved in one more case under Sections 323, 325 and 379-B of the IPC.

6. The learned counsels for the petitioners have further submitted that it is a case where the learned trial Court framed charges on 30.09.2022 and it is almost 1 year and 7 months after the framing of the charges and now 7 prosecution witnesses have been examined and rather all the material witnesses except for one injured, namely, Jeetu remains unexamined. They further submitted that 7 prosecution witnesses out of total cited 31 witnesses have been examined including the complainant, injured Pushpender, injured Bahadur and

injured Pardeep and remaining witnesses are the official witnesses and in this way, all the material witnesses stand examined except for one injured, who is yet to be examined because he is not appearing before the learned trial Court despite summons being issued to him.

7. The learned counsels for the petitioners also submitted that as per the FIR itself, the role attributable to all the three petitioners is of holding a danda and there is no specific injury attributable to them as so alleged in the FIR. They further submitted that in fact similarly situated co-accused namely Suryadev, Manoj, Kanwar Pal @ Bholi and Chander Bhan, against whom the allegation was of holding a danda, have already been extended the benefit of regular bail by a Coordinate Bench of this Court on 14.09.2022 and 14.10.2022 by way of two separate orders i.e. Annexure P-8 and P-9 attached with CRM-M-1297-2024. The learned counsels for the petitioners further submitted that the petitioners are exactly at parity with the aforesaid co-accused, who have already been granted the concession of regular bail and therefore, on the ground of parity as well, the petitioners are entitled for the grant of regular bail. They also submitted that as per the MLR and the post-mortem report, the cause of death was the injury by way of a fire arm and there were some other injuries, which were lacerated wounds but as per the MLR and post-mortem report, there is no injury by way of any blunt weapon. They further submitted that in view of peculiar facts and circumstances of the present case and considering the parity and custody part, the petitioners may be considered for grant of the regular bail.

8. On the other hand, Mr. Gaurav Jindal, Addl. A.G., Haryana submitted that so far as the aforesaid custody as stated by the learned counsels

for the petitioners is concerned, the same is correct and it is also correct that the petitioners do not have any criminal antecedents except for Rohit Rana (petitioner in CRM-M-8436-2024), who is involved in one more case under Sections 323, 325 and 379-B of the IPC. He also submitted that so far as the parity aspect of the present three petitioners with the aforesaid four co-accused, who have already been granted the concession of regular bail by a Coordinate Bench of this Court vide Annexure P-8 and P-9 is concerned, the same is also not in dispute because here in the present three cases also, the allegations were of carrying of danda by all the three petitioners but there is no specific injury attributable to them. He has however opposed the grant of bail to the petitioners on the ground that the matter was serious in nature, wherein a group of persons with a common intention had killed the deceased, although the fatal injury was caused by Narvir @ Sonu, who is already in custody.

9. Mr. Ajay Rawat, who has stated that he is the brother of the deceased has also opposed the grant of regular bail to the petitioners on the ground that it was with collective effort and common intention that all the accused persons had killed the deceased although it is not in dispute that the fire arm injury was attributable not to the petitioners but to the aforesaid co-accused, namely, Narvir @ Sonu. He further submitted that when one of the aforesaid co-accused, namely, Suryadev was granted regular bail by a Coordinate Bench of this Court more than one year ago, he again tried to intimidate the witnesses and also threatened and caused injuries to the witnesses and in consequence to the same, an FIR was registered against Suryadev and there is a likelihood that in case the petitioners are released on bail then they

may also intimidate and threaten the witnesses and therefore, they are not entitled for the grant of regular bail even if they are at parity with the aforesaid four co-accused, who have been granted regular bail vide Annexure P-8 and Annexure P-9.

10. At this stage, learned counsels for the petitioners have submitted that so far as the aforesaid lodging of the FIR against the aforesaid Suryadev who was granted bail by this Court is concerned, later on when the matter was investigated it was found that the aforesaid Suryadev was not involved and he has rather been exonerated by the police.

11. I have heard the learned counsel for the parties.

12. The custody of Lekh Raj alias Lekhu (petitioner in CRM-M-1297-2024), Yogesh Kumar (petitioner in CRM-M-59382-2023) and Rohit Rana (petitioner in CRM-M-8436-2024) comes out to be 2 years, 5 months and 20 days. As per the learned counsel for the parties, all the petitioners are having clean antecedents except for Rohit Rana (petitioner in CRM-M-8436-2024) as he is involved in one more case under Sections 323, 325 and 379-B of the IPC. So far as the parity of the petitioners with aforesaid four co-accused, who have already been granted the concession of regular bail by a Coordinate Bench of this Court vide Annexure P-8 and Annexure P-9 is concerned, the same is not in dispute. A perusal of the FIR would show that the role attributed to the petitioners was that they were carrying *dandas* but no specific injuries have been attributed to the petitioners as per the FIR. Be that as it may, this Court does not wish to make any observation on the merits of the case but only for the purpose of considering the prayer for grant of regular bail,

this Court has to see the stage of the trial, the custody and the parity aspect as well. So far as the stage of the trial is concerned, as per the learned counsel for the parties, 7 prosecution witnesses have been examined, out of which 4 are the material witnesses including the complainant and 3 are the injured and only one injured witness remains to be examined. So far as the custody of the petitioners is concerned, it is almost 2½ years for all the petitioners. So far as the parity aspect is concerned, it is not in dispute that the petitioners are exactly at parity with the aforesaid four co-accused, who have already been extended the benefit of regular bail by a Coordinate Bench of this Court vide Annexure P-8 and Annexure P-9.

13. So far as the apprehension which has been expressed by the brother of the deceased, who is present in the Court that one of the aforesaid co-accused, namely, Suryadev was granted regular bail vide Annexure P-8 and thereafter he tried to intimidate the witnesses is concerned, the same was applicable to the aforesaid co-accused regarding which a separate procedure may have been adopted either by the State or by the complainant for seeking cancellation of bail or whatever remedy was available under the law and even otherwise also, as per the learned counsel for the petitioners, the aforesaid Suryadev has been exonerated by the police. Therefore, it cannot be merely said that the aforesaid co-accused, namely, Suryadev had allegedly tried to intimidate the witnesses and the same will be done by the present petitioners as well unless there is some material placed on the record in this regard. However, no such material has been placed on the record by the learned State counsel.

14. Therefore, considering the aforesaid totality and circumstances of the present case, this Court deems it fit and proper to grant regular bail to the petitioners.

15. Consequently, all the three petitions are allowed. The petitioners shall be released on regular bail, if not required in any other case, subject to furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.

16. However, anything observed hereinabove shall not be treated as an expression of opinion on the merits of the case and is meant for the purpose of deciding the present petitions only.

10.04.2024
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No