

Neutral Citation No.
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Reserved on:20.03.2024
Pronounced on: 01.04.2024

1.

CRM-M-2042 of 2024

Neerajpal @ Neeru @ Dhiraj Pal

.....Petitioner

Vs.

State of Haryana

.....Respondent
2.

CRM-M-36938 of 2023

Sukhjeet @ Shenky

...Petitioner

Vs.

State of Haryana

.....Respondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Abhimanyu Singh, Advocate for the petitioner
in CRM-M-2042 of 2024.

Mr. Rizwan Khan, Advocate for the petitioner in
CRM-M-36938 of 2023.

Mr. Randhir Singh, Addl. AG, Haryana.

Mr. D.S. Matya, Advocate for the complainant.

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.311 dated 05.11.2021 registered under Sections 148, 149, 302, 307, 452 IPC and Sections 25(1b)(a) (Act No.54 of 1959) of Arms Act, 1959 (for short, 'the Arms Act') [Final Report under Sections 173 Cr.P.C has been presented under Sections 148, 149, 302, 307, 429, 459, 452, 216, 120-B, 212 IPC and Sections 25(1b) (a), 25(8), 27(1), 29(b) of the Arms Act had been added later on] at Police Station Industrial Sector-7, Manesar, Gurugram District Gurugram (Haryana).

2.1 The facts leading to registration of the FIR are that the complainant – Rajesh Kumar got recorded his statement to the Police that on

04.11.2021 on Diwali Festival, he along with his son Vikas Raghav had visited the house of his sister Bimla at Village Kasan. His sister Bimla is married to Ex-Sarpanch – Gopal of Village Kasan and has two sons, namely, Balram and Sohan Pal @ Sonu. His sister's family was having enmity with one Yoginder alias Rinku son of Subhash of Village Kasan since 2007, as Balram and Sohan alias Sonu had committed murder of Manoj, brother of Yogender alias Rinku and in that case, both of them i.e., Balram and Sohan Pal had been convicted by the Court and presently, they were on bail in the case for the last 7-8 years.

2.2 It was disclosed further that on 04.11.2021 at about 08:00 PM, as he (Rajesh) came to the house of his sister along with his son Vikas and was sitting with his nephews Balram, Sohan Pal and Balram's cousin Parveen; whereas, his son Vikas was celebrating Diwali with Yash son of Balram in the courtyard, when 5-6 boys armed with pistols and other weapons came there and started firing indiscriminately. His son Vikas and Yash son of Balram suffered gun shot injuries. Assailants then ran towards their room and fired gun shots at him, Balram, Sohan Pal and Parveen through window with an intention to kill them. As they raised hue and cry, the assailants fled away. Complainant got himself admitted in the Medanta Hospital. Balram, Sohan Pal, Yash and Parveen also got treatment from Medanta Hospital. Vikas, son of complainant was declared brought dead by the Medical Officer. It was further submitted by the complainant that the incident was caused by Yogender alias Rinku, Deepak alias Bholu, Manish alias Rana, Amit @ Ganth and other unknown persons.

2.3 FIR was registered and investigation was carried out. During investigation, the co-accused as well as the petitioners, were arrested. The disclosure statement of petitioner – Sukhjeet @ Shenky led to the recovery

of a country made pistol and a magazine. The role attributed to the petitioner – Sukhjeet alias Shenky is to have supplied arms for commission of the offence to the co-accused at the instance of petitioner – Neerajpal.

3. It is contended by learned counsel for the petitioner Neeraj Pal alias Neeru, that petitioner is not named in the FIR; that he did not have any motive to cause the incident; that the only role attributed to him is to have helped the main accused in arranging the weapons; that petitioner was already in custody in another case and that he was arrested in the present case after obtaining his production warrants; that numerous other co-accused have already been allowed bail; that trial may take time to conclude due to the long list of prosecution witnesses and so, he be allowed bail.

4. On behalf of petitioner Sukhjeet alias Shenky, similar submissions are made to the effect that he is not named in the FIR; only role attributed to him is to have supplied arms to the main accused and that similarly placed co-accused have already been allowed bail.

5. Strongly opposing both the petitions, learned State Counsel contends that offence has been committed in a well-planned manner by hatching a criminal conspiracy. The co-accused disclosed and identified the places, where they had stayed and which facts have been verified through CCTV footages. That empty cartridges of used bullets were recovered from the spot; that there is deliberate act of commission of offence though five minor children belonging to different areas, who were about to attain majority, which in itself shows that crime was committed in a well-planned manner to avoid capital punishment. Learned State Counsel also submits that co-accused, who have been allowed bail were involved in providing funds or hatching criminal conspiracy, harboring/concealing of the co-accused etc., whereas petitioner Sukhjeet alias Shenky provided the weapons

of offence to the co-accused as used in the commission of the crime, on the asking of the petitioner – Neerajpal and so, petitioners cannot claim parity. Prayer is made for rejecting both the petitions.

6. Submissions made by both sides have been considered.

7. As will be evident from the status report filed by the respondent- State, at the time of commission of the crime on 04.11.2021, petitioner Neeraj Pal was lodged in jail. The role attributed to said petitioner Neeraj Pal is that he facilitated the providing of the weapons of offence to co-accused (the real assailant) through his acquaintance/ co-accused/ petitioner Sukhjeet alias Shenky and it is on the instructions of said petitioner Neerajpal that Shenky alias Sukhjeet had provided weapons of offence to the co-accused Amit alias Ganth and later, on a pistol along with magazine was recovered from the possession of said Sukhjeet alias Shenky.

8. It is, thus, evident from the status report that none of the petitioners actually participated in the crime. Petitioner - Neerajpal while in jail, instructed petitioner – Sukhjeet to provide weapon of offence to co-accused Amit alias Ganth. On his instructions, petitioner Sukhjeet alias Shenky provided weapon of offence to co-accused Amit alias Ganth. The disclosure statement of petitioner – Sukhjeet alias Shenky would reveal that after a few days from providing of weapons to Amit alias Ganth, said Amit alias Ganth, had returned the pistol to him and later on, the Police recovered the same at his instance.

9. It is no doubt true that a heinous crime has taken place inasmuch as four persons have been done to death by gunshot injuries and others have been caused gunshot injuries but Court is required to look into the roles played by the petitioners in the commission of crime.

10. Apart from the afore-said fact that none of the petitioners had

gone to the spot to commit the murder, it is further revealed that as many as seven co-accused have already been allowed bail. The following are their details:-

- Co-accused Amit was allowed bail by learned Additional Sessions Judge, Gurugram vide order dated 01.12.2021 after finding that the role attributed to him was to the extent of commission of offence under Section 216 IPC only.
- Co-accused Vikas alias Kala was allowed bail on 23.12.2021 by learned Additional Sessions Judge, Gurugram after finding the role attributed to him to the extent of harboring the co-accused and thus, to have committed the offence under Section 212 IPC.
- Co-accused “*Sah*” was allowed bail under Section 12 of Juvenile Justice (Care and Protection of Children) Act, 2000 (for short, ‘the JJ Act’) vide order dated 16.07.2022 in view of the parameters of the said JJ Act, he being a child in conflict with law.
- Co-accused Subhash was allowed bail by the Co-ordinate Bench of this Court vide order dated 06.12.2022 in CRM-M-36509 of 2022 after finding that his role was to the extent of participating in the conspiracy.
- Later on, co-accused David, Gopal and Deepak alias Bholu were allowed bail by the Court of learned Additional Sessions Judge, Gurugram vide orders dated 19.12.2022; 23.12.2022; and 17.01.2023 respectively on the ground of parity, inasmuch as Subhash had already been allowed bail and it was found that these co-accused were attributed to have conducted recci and were part of the conspiracy.

11. In the present case also, as noticed above, none of the petitioners actually participated in the commission of offence. Petitioner –

Sukhjeet supplied weapons to Amit alias Ganth. Petitioner Neerajpal had instructed petitioner - Sukhjeet to do so. Weapon was later recovered from Sukhjeet.

12. The status report as filed in Neerajpal's case would reveal that there is long list of 106 witnesses. It is stated that 29 of them are public witnesses, out of which Rajesh and Bimla are the crucial eye witnesses. However, since none of the petitioners had gone to the spot, so, the role of the petitioners is to be proved on the basis of disclosure statements and the consequent recoveries; which are most likely to be proved by the Police Officials. No doubt that both the petitioners are also involved in other cases as per the details given in the status report but considering the role attributed to them in present case, criminal antecedents of petitioners in itself cannot be a reason to decline bail to them.

13. Looking into all the afore-said facts and circumstances, but without commenting anything further on the merits of the case, the present petitions are allowed. Both the petitioners are admitted to bail on their furnishing bail bonds and surety bonds to the satisfaction of learned trial Court/ Duty Magistrate concerned, on usual terms and conditions.

14. A photocopy of this order be placed on the file of connected case.

April 01, 2024
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(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No