

CRM-M-8243-2024

3. The prayer in the present petitions under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner-Amit Kumar @ Pichi @ Danish Bhagat (in CRM-M-8243-2024) and Pratham (petitioner in CRM-M-8416- 2024) in case FIR No.128 dated 03.12.2021 under Sections 302, 364, 341, 148, 148 IPC and Section 25/27/54/59 of the Arms Act, 1959 registered at Police Station 'D' Division, Amritsar District Amritsar.
4. The present FIR came to be registered at the instance of Ravinder Kumar who stated that his injured son-Rahul who subsequently died on account of injuries sustained by him had disclosed to him that a number of accused including the present petitioners had brutally assaulted him (deceased-Rahul).
5. The learned counsels for the petitioners contend that the statement of the complainant-Ravinder Kumar, his wife-Geeta and an eye witness-Sanjeev Kumar had been recorded as PW-1, PW-2 and PW-3 respectively and none of them had supported the prosecution case. As the petitioners-Amit Kumar @ Pichi @ Danish Bhagat and Pratham were in custody since February 2022 and 13.07.2022 respectively and only 03 material witnesses out of the 39 cited in the list of witnesses had been examined so far, the Trial of the present case was not likely to be concluded anytime soon. Therefore, the petitioners were entitled to the concession of bail even though they had other cases registered against them.

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6. The learned counsel for the State, on the other hand, contends that the petitioner- Amit Kumar @ Pichi @ Danish Bhagat (in CRM-M-8243-2024) was under-trial in five cases, though, the petitioner- Prathan (in CRM-M-8416-2024) has clean antecedents. The offence stood established from the statement of the deceased-Rahul made to his father-Ravinder Kumar (complainant/PW1). Therefore, the petitioners were not entitled to the grant of bail. He, however, concedes that the statements of all the three material witnesses, namely, PW-1/Ravinder Kumar (complainant), Geeta-PW-2 (mother of the deceased-Rahul) and PW-3/Sanjeev Kumar (a purported eye-witness) had been recorded and none of them had supported the prosecution case.

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

8. Admittedly, all the three material witnesses have been examined and none of them have supported the prosecution case. Whether the other evidence available on record is sufficient to affix liability upon the petitioners shall be adjudicated upon during the course of the trial. The petitioners are in custody since February 2022 and 13.07.2022 respectively and as many as 36 prosecution witnesses are yet to be examined. Therefore, the trial of the present case is not likely to be concluded anytime soon. Though the petitioner- Amit Kumar @ Pichi @ Danish Bhagat (in CRM-M-8243-2024) has other cases

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registered against them, in the present factual scenario, the further incarceration of the petitioners is not required.

8. Thus, without commenting upon the merits of the case, the present petitions are allowed and the petitioners, namely, Amit Kumar @ Pichi @ Danish Bhagat (in CRM-M-8243-2024) and Prathan(in CRM-M-8416-2024) are ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. The petitioners shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish an affidavit each time that they are not involved in any case(s)/crime(s) other than those referred to in this order.

10. In addition, the petitioners (or anyone on their behalf) shall prepare an FDR in the sum of Rs.50,000/- each and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioners from Trial without sufficient cause.

11. Both the petitions stand disposed of.

February 22, 2024
satish

(JASJIT SINGH BEDI)
JUDGE

Whether speaking/reasoned : YES / NO

Whether reportable : YES / NO