

CRM-M-9638-2024
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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 23.04.2024

(1) CRM-M-9638-2024 (O & M)

Pankaj @ Khota Petitioner
V/s
State of Haryana ...Respondent

(2) CRM-M-9069-2024 (O & M)

Sandeep Petitioner
V/s
State of Haryana ...Respondent

CORAM: HON’BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Sarfraj Hussain, Advocate,
for the petitioner(s) in both the cases.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

JASJIT SINGH BEDI, J. (Oral)

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The application for placing on record a copy of the anticipatory
bail order of the co-accused/Narender dated 03.04.2024 as annexure P-2, is
allowed as prayed for subject to all just exceptions. The same is taken on
record.

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This order shall dispose of two criminal miscellaneous petitions i.e. CRM-M-9638-2024 and CRM-M-9069-2024 as they arise out of the same FIR.

2. The petitioner-Pankaj @ Khota (petitioner in CRM-M-9638-2024) son of Ghanshyam and the petitioner-Sandeep (in CRM-M-9069-2024) son of Hoshiyar Singh seek the grant of regular bail under Section 439 Cr.P.C. in case bearing FIR No.652 dated 24.11.2023 under Sections 147, 148, 149, 323, 325 and 506 IPC registered at Police Station Pataudi, District Gurugram, Haryana.

3. For the sake of convenience, the facts are being taken from the petition bearing No. CRM-M-9638-2024.

4. The present FIR came to be registered at the instance of Krishan Kumar and reads as under:-

“To, the Chowki in-charge, Pataudi City, Gurugram, it is requested to you that I am Sahil s/o Surjit, and permanent resident of Janaula. On 20.11.2023 at around 8:15 pm I was in front of Allahabad Bank near Rampur Mod, on Gurgaon road and at that time Monu s/o Dhyanchand, Pradeep (Parle) s/o Dhyanchand, Janaula, Sandeep Lokra, Sonu Pandit, Khota Jeevda and other 8-10 persons came to me and hammered patasa nail (keel) in my feet and Monu and Pradeep hit me with iron rod and Khota Jeevda hit me with rod on my hand. All these persons hit me very badly and gave threat to kill me. Monu had a dog with him and he put his leg on my chest and

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said kill him. Strict action may kindly be taken against these persons. Applicant-S/D, Sahil 9310406633”.

5. The learned counsel for the petitioners contends that the petitioners have been falsely implicated in the present case. The FIR in question had been registered after an unexplained delay of 04 days. No motive whatsoever had been attributed to the petitioners for having allegedly committed the offence in question. No independent witness is alleged to have witnessed the occurrence. A co-accused, namely, Narender @ Monu had been granted the concession of anticipatory bail vide order dated 03.04.2024 (Annexure P-2). The offences were triable by the Court of a Magistrate. As the petitioners were in custody since 25.01.2024 but none of the 13 prosecution witnesses had been examined so far, the Trial of the present case was not likely to be concluded anytime soon and therefore, they were entitled to the concession of bail, even though, they had multiple other cases registered against them.

6. The learned counsel for the State, on the other hand, has filed two separate replies dated 20.04.2024 and 21.04.2024 respectively, which are taken on record. While referring to the said replies, he contends that the injuries attributed to the petitioners were grievous in nature inasmuch as the complainant-Sahil had suffered two fractures. The petitioners were habitual offenders with as many as 10 and 13 cases respectively pending against them. Therefore, they were not entitled to the concession as prayed for. He, however, concedes that the petitioners were in custody since 25.01.2024,

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none of the 13 prosecution witnesses had been examined so far and that a co-accused, namely, Monu @ Narender had been granted the concession of anticipatory bail.

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

8. Admittedly, the petitioners have been attributed injuries attracting Section 325 IPC. They are also serial offenders with multiple cases registered against them. However, in the instant case, they are in custody since 25.01.2024, the investigation stands completed but none of the 13 prosecution witnesses have been examined so far. As the Trial of the present case is not likely to be concluded anytime soon, the further incarceration of the petitioners is not warranted, moreso, when a co-accused/Monu @ Narender has been granted the concession of anticipatory bail.

9. Thus, without commenting upon the merits of the case, the present petitions are allowed and the petitioners, namely, Pankaj @ Khota (in CRM-M-9638-2024) and Sandeep (in CRM-M-9069-2024) are ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

10. The petitioners shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that they are not involved in any other crime/case(s) other than the cases referred to in the affidavits dated 20.04.2024 and 21.04.2024 respectively.

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11.

In addition, the petitioners (or anyone on their behalf) shall prepare an FDR in the sum of Rs.1,00,000/- 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.
12.

The petition stands disposed of.

April 23, 2024
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

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