

1. CRM-M-11080-2024

...PETITIONER

...RESPONDENT

2. CRM-M-11315-2024

...PETITIONER

V/S

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Mohit, Advocate
for the petitioners.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR J. (ORAL)

This order of mine shall dispose of aforementioned petitions as both the petitions are arising out of the same FIR. For brevity, facts are taken from ***CRM-M-11080-2024*** titled as ***Mangal Vs. State of Haryana***.

2. These petitions have been filed under Section 439 of Cr.P.C. seeking grant of regular bail to the petitioners in the case bearing FIR No.423 dated 12.12.2022 registered under Sections 147, 148, 149, 323, 379-B, 427, 452, 506 of Indian Penal Code and Sections 324, 302, 307, 325, 120-B of the

Indian Penal Code (added later on) and Section 25 of Arms Act, 1959 (added later on) at Police Station Bhuna, District Fatehabad (Haryana).

3. The present FIR was lodged on the statement of Garib Dass on the allegations that in the family of complainant, one Ramdas father of Manoj was expired and all were sitting at his home after the death of Ramdas and in the meanwhile, one, Kanshi Ram came on the *kirana* shop of complainant for getting the *bundal* of *biddi* then Shivam grandson of the complainant was sitting in the street due to death which has occurred in their family. Therefore, *biddi* cannot be sold, then due to that talk, Kanshi slapped on the face of Shivam and after some time, called 30-40 persons on spot who attacked through bricks and stones on their houses. Knife blow was given on the stomach of Mukesh son of the complainant, brick blow was given in the head of Ravi, serious injuries were caused on the finger and thumb of Ramesh and entire belongings in the house were broken. It is further alleged that they had also snatched the gold chain from the neck of Mukesh.

4. Learned counsel(s) for the petitioners *inter alia* contend that the perusal of the FIR would indicate that the complainant-Garib Dass has named six persons in the FIR and the petitioners have been nominated as accused later on, however, no specific role or overt act is attributed to them. Similarly situated co-accused namely, Ram Niwas vide order dated 29.11.2023 in case bearing CRM-M-59035, Sanjay and Vakil @ Gokal vide order dated 05.12.2023 in case bearing CRM-M-36632 of 2023, Deepak vide order dated 25.01.2024 in case bearing CRM-M No.3087 of 2024, Sahil @ Pohla vide order dated 15.02.2024 in case bearing CRM-M No.6954 of 2024, have also been granted the concession of regular bail by this Court annexed as Annexures P-3 to P-6. The injury attracting the offence under Section 302 IPC is specifically attributed to Sandeep @ Bachi. It is contended that the cause of

death given in the death summary is a respiratory failure and it would be a moot point to be determined by the trial Court, whether offence under Section 302 IPC is made out or not.

5. Per contra, learned State counsel, on instructions from ASI Dalbir Singh, opposes the prayer for grant of regular bail to the petitioner on the ground that the petitioners being a member of unlawful assembly, has actively participated in the alleged incident, in which, son of the complainant was seriously injured, however, he could not controvert the fact that similarly situated co-accused have been also granted the concession of regular bail and the petitioners are not involved in any other case. Custody certificate of petitioner-Mangal, filed by the respondent-State is taken on record.

6. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that both the petitioners are behind the bars since 15.12.2022. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court on 10.03.2023. Trial of the case has not made much progress as none, out of 36 prosecution witnesses, has been examined so far.

7. Keeping in view the facts and circumstances of the case and especially the fact that the similarly situated co-accused have been granted the concession of regular bail by this Court and the likelihood of the trial being prolonged, the present petitions are allowed. Culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioners. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioners-Mangal and Pintu are ordered to be released on regular bail, subject to their furnishing bail/surety bonds to the satisfaction of CJM/Duty Magistrate concerned.

8. Nothing observed hereinabove shall be construed as expression of

opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

March 07, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |