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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 02.07.2024

CRM-M-15733-2024

BALJEET

...

Petitioner

Versus

STATE OF HARYANA

...

Respondent

CRM-M-21742-2024

MANISH @ KUKU

...

Petitioner

Versus

STATE OF HARYANA

...

Respondent

CRM-M-22130-2024

RAHUL @ NANHA

...

Petitioner

Versus

STATE OF HARYANA

...

Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Rakesh K. Lathwal, Advocate
for the petitioner in CRM-M-15733-2024.

Mr. P.S. Sullar, Advocate
for the petitioner in CRM-M-21742-2024.

Mr. Rajesh Bansal, Advocate and
Mr. Naveen Nandal, Advocate
for the petitioner in CRM-M-22130-2024.

Mr. Ravi Partap Singh, DAG, Haryana.

PANKAJ JAIN, J. (ORAL)

Petitioners in the afore-captions three petitions seek regular bail pending trial in case FIR No.91 dated 4th of March, 2021 registered for offences punishable under Sections 148, 149, 302, 379-B of the Indian Penal



Code, 1860 and Section 25 of Arms Act (Sections 216, 411, 120-B of IPC and Section 27 of the Arms Act added lateron) at Police Station Gohana City, District Sonipat (Haryana).

2. Custody Certificates of the petitioners have been produced. The same are taken on record.

3. FIR was registered on the information supplied by one Vijay who happens to be the father of the deceased Rohit to the following effect :

"To SHO Sir City Gohana Police Station Sir, that I am Vijay son of Rambhagat caste Brahman and I am resident of village Rabhdaand I am doing agriculture work. I have two sons. The elder one is Mohit and younger is Rohit who is 20 years old Rohit is unmarried and preparing for the job Today, I was present at my village and I received information that firing took place on my son Rohit and his companion Sahil son of Suresh caste Baragi resident of SP Majra near drain No. 8 in Gohana City and my son was brought in Government Hospital Gohana. After receiving that information, I alongwith my family members reached at Government Hospital, Gohana where I came to know that my son Rohit had been expired and another boy namely Sahil son of Suresh also expired in PGI Khanpur. I have verified at my own level that my son Rohit and his companion Sahil were going on motorcycle bearing No. HR-11M-1032 near the drain No. 8, Vishnu Nagar, Gohana then my co-villagers namely Supari son of Sattu, Tunda, Sanni son of Rajbir, Rahul son of Kidara, Baljeet son of Karan Singh residents of village Rabhda and the nephew of Rasia Pahalwan Kuku and their others companion fired shot towards them and killed. That four months ago our co-village Rashia Pahalwan killed in village. The family members of Rashia due to that grudge killed my son Rohit and his companion Sahil by the shot and run away from there and also took the bearing No. HR-11M-1032 with them. Legal action



be taken against the above mentioned Supari, Sanni, Rahul, Baljeet, Rashia nephew Kuku and others. Sd/- Vijay xxx

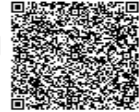
4. Status report by way of an affidavit of Virender Singh, HPS, ACP, Gohana-1 has been filed on behalf of respondent/State today in Court, which is taken on record. As per the prosecution on 10th of June, 2021 Manish @ Kuku who was named in the FIR suffered disclosure to the following effect :

“That on dated 10.06.2021 Manish @ Kuku deposed after decline his earlier statement that i, Rasiya, Ankit @ Supari, Sunny @ Maya, Rahul @ Nanha, Ashish @ Mohit and Krishan are good friends. I was the partner in liquor vend with Rasiya Pahalwan. About 6 months ago Rishipal @ Rasiya was murdered in the village. I and my friend had great sorrow regarding the death of Rasiya due to we used to leave with Raisya. Rohit used to hurled taunt regarding the death of Rasiya and used to say that they murdered Rishipal @ Rasiya and they will also murdered us and his friends whenever they got chance. Sahil S/o Suresh resident village Shikanderpur Majra Sonipat always being remain with Rohit due to which Sahil also used to taunt upon me. That I alongwith other co-accused Sunny @ Maya S/o Rajbir, Baljeet S/o Kedar Singh, Krishan @ K.K. S/o Rajender Singh resident of village Shikanderpur Majra and Ashish @ Mohit S/o Bijender @ Jawara, Ankit @ Supari S/o Satbir R/o village Rabhada Distt. Sonipat and Manish @ Kuku S/o Dalbir R/o Bhagkhera Distt. Jind at present resident of Alipur Delhi hatch a plan to murder Rohit and Sahil and according to that plan on dated 04.03.2021 at about 10:00 A.M. krishan @ K.K. S/o Rajender Singh R/o village Shikanderpur Majra and Ankit @ Supari S/o Satbir R/o village Rabhada, Rahul and Ashish @ Mohit, Sunny @ Maya had come at Gohana to search Rohit. I, Krishan,i and Sunny, were having weapons in their hand, we saw that Rohit and Sahil were going on bullet motorcycle no. HR11M- 1032 and Sahil was driving and



Rohit was sitting behind on the motorcycle. On the drain no. 8, we had parked our motorcycles ahead their bullet motorcycle and we had fired upon Rohit and Sahil with their respective weapons. Rohit and Sahil tried to run away but they fell down. After that i picked up their bullet motorcycle and i with Ankit had fled away on the bullet motorcycle and Sunny had taken splendour motorcycle from the spot. Krishan @ KK had two 312 bore weapon in which one of the weapon got burst during the firing in the left hand Krishan. Due to which Krishan got multiple injuries. After that Rahul had taken the bullet motorcycle and Ankit @ Supari was pillion rider Sunny was on splendour , mototycyle and Ashish was driving deluxe motorcycle and after that we felled towards Rohtak. After that Rahul had exchange motorcycle with the Sunny and had taken Deluxe motorcycle. I and Ashish had taken Krishan to Rohtak Hospital for his treatment where Krishan was got admitted in hospital on the name of Rahul R/o village Bidhlanna. And Krihan got discharge after three days, i had spent Rs. 1,20,000/- for the treatment of Krishan and after that i and Krihan had got to Nanital, where we stayed 4-5 days. At the time of offence i had 32 bore pistol and some round i had given one 32 bore pistol and reaming bullets kept in the house of Rishpal @ Rasiya. I can recovered 32 bore pistol and motorcycle. Statement was recorded and the accused put marked their signature upon the disclosure statement.”

5. Counsels for the petitioners submit that from the bare perusal of the FIR it is evident that the complainant is not eye-witness to the incident and FIR has been registered on hearsay. It has been further contended that so far as the disclosure made by petitioner Manish @ Kuku is concerned, the same was recorded while he was under arrest and was in police custody and thus cannot be the sole basis to implicate the petitioners. It is further stated that apart from the aforesaid disclosure statement alleged to have been made



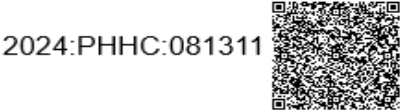
by petitioner Manish @ Kuku there is no incriminating evidence against the petitioners. A weapon was stated to have been recovered from Manish @ Kuku and as per the ballistic report the same has not matched the bullets recovered from the body of the deceased. Petitioner Baljeet is behind bars for more than 3 years and 13 days, petitioner Manish @ Kuku has undergone actual custody of more than 3 years and 26 days and petitioner Rahul @ Nanha has suffered incarceration for more than 3 years, 2 months and 5 days.

6. As per the police report, there are 44 cited witnesses and despite the fact that the petitioners have remained in custody for more than 3 years, only 13 out of 44 witnesses could be examined. Thus, it is evident that the trial is not likely to conclude in the near future. Further the material witnesses i.e. the complainant as well as the alleged eye-witnesses already stand examined though they have supported the prosecution.

7. State Counsel is not in position to dispute the aforesaid facts however refers to the antecedents of the petitioners to submit that they don't merit bail. However, on being put to specific query, he is fair in stating that apart from the disclosure statement, there is no incriminating evidence against the petitioners.

8. I have heard counsel for the parties and have gone through records of the case.

9. Without commenting on the merits of the case, keeping in view the incarceration suffered by the petitioners and the nature of the evidence



available against them, the present petitions are allowed. The petitioners are ordered to be released on bail on their furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

10. Needless to say that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.
11. A copy of this order be kept on the files of other connected cases.

July 02, 2024

Dpr

(Pankaj Jain)

Judge

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No