

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-18210-2024
Date of decision:-13.09.2024

SUNIL KUMAR AND ANOTHER ... Petitioners

Versus

STATE OF HARYANA ... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Ms. Komal Balyan, Advocate for
Mr. Vikas Malik, Advocate for the petitioner.

Mr. Ramender Singh Chauhan, AAG, Haryana

Ms. Deepika Advocate for the complainant.

SANJIV BERRY, J.(ORAL)

Learned counsel for the State has filed custody certificate dated 12.09.2024, the same is taken on record. Copy thereof, has been supplied to the counsel opposite.

2. Arguments heard.
3. The instant petition has been preferred by the petitioners under Section 439 of the Code of Criminal Procedure for grant of regular bail in the following case (Annexure P-1):-

FIR No.	Dated	Sections	Police Station
79	24.02.2023	302, 148, 149, 341, 216, 506, 120B IPC and 25 of Arms Act	Sadar Narnaul, District Mahendergarh

4. It is *inter alia* contended by learned counsel for the petitioners that the petitioners are innocent and have been falsely implicated in this case.

She contends that petitioners are not having any criminal antecedents and no specific overt act has been attributed to the petitioners in the present case. She contends that even as per the FIR the only allegations qua the petitioners is that of exhorting lalkara in the incident, in fact they have no role whatsoever in the alleged occurrence and are in custody since 28.04.2023. After completion of investigation, challan has already been presented in Court, hence she prays for grant of regular bail to the petitioners.

5. On the other hand, learned State counsel referring to the reply submitted by the State has contended that the petitioners have actively participated in the occurrence and it has come during investigation that they had paid co-accused Tarun for purchase of pistol, hence prayed for dismissal of the petition.

6. After considering the rival contentions and perusing the record, it transpires that the instant FIR was registered on the allegations that on 24.02.2023 at about 10:00 am when the complainant Pawan along with Rakesh were returning from fields and reached near the house of Balwan, Pawan noticed that his brother Ajay Kumar coming on his motorcycle, when he reached near the house of Vinod Pandit then Tarun @ Chikku, Pardeep, Sujit who were having enmity with him, on the lalkara being raised by the petitioners, Tarun, Pardeep, Sujit and Pankaj stopped the motorcycle then Tarun fired a shot from country made pistol followed by Pardeep and Sujit having axes and Pankaj having danda attacked him. Thereafter, the petitioners exhorted that one has been killed and now the entire family will be finished. Thereafter, injured were shifted to the hospital where he was declared brought dead. FIR was registered and subsequently accused were



arrested.

7. As per reply submitted by the State, accused Mahipal, Kamla, Urmila, Suman, Raman and Ritik have since been granted concession of bail in this case. A perusal of record would also reveal that allegations against the petitioners happen to be that of raising lalkara, no injury to the deceased is to be attributed to the petitioners which in fact has been attributed to co-accused Tarun, Sujit and Pankaj. As per the reply it is alleged that the petitioners had given accused Tarun money to purchase country made pistol but as of now there is nothing to substantiate the same. Admittedly, the petitioners are not having any criminal antecedents and are in custody since 29.04.2023. The prosecution has cited 26 witnesses but none has been examined till date. The conclusion of trial to ascertain criminal liability, if any, of the petitioner will take sufficient long time.

8. In these circumstances, no purpose would be served by detaining the petitioners any longer in custody, as a result, the present petition is allowed. The petitioners are ordered to be released on regular bail subject to furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court concerned, if not required in any other case; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

9. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)
JUDGE

13.09.2024

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