



CRM-M-23804-2023 & CRM-M-35769-2024

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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Date of decision : November 07, 2024

1. CRM-M-23804-2023

Surender and another ....Petitioners  
Versus  
State of Haryana ....Respondent

2. CRM-M-35769-2024

Hansraj ....Petitioner  
Versus  
State of Haryana ....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. PS Jammu, Advocate for the petitioners in  
CRM-M-23804-2023  
  
Mr. Dheeraj Narula, Advocate, for the petitioner in  
CRM-M-35769-2024  
  
Mr. Bhupender Singh, DAG, Haryana

KULDEEP TIWARI,J. (ORAL)

1. Status report dated 6.11.2024, by way of affidavit of Sh. Kishori Lal, HPS, Deputy Superintendent of Police (HQ), Dabwali, District Sirsa, is filed today in Court by the learned State counsel in CRM-M-23804-2023, and the same is taken on record. Copy thereof, is supplied to the counsel opposite.



2. Both these petitions are amenable to be decided together as common relief i.e. seeking regular bail in a common FIR i.e. FIR No. 0197 dated 12.6.2021, under Sections 302, 379-B, 342, 148, 149, 120-B IPC registered at Police Station Dabwali Sadar, District Sirsa, has been sought, therefore, both the petitions are taken together for decision.

3. Petitioners Surender and Chhinder, arrested on 19.7.2021, and petitioner-Hansraj arrested on 12.6.2021, in the instant FIR, have approached this Court, for the grant of relief of regular bail.

4. The prosecution agency in the instant case was set into motion on a complaint made by Mukesh Kumar alias Amit, wherein, he alleged that his brother Naresh alias Dholu, was confined by the petitioners and other co-accused in the house of Dharambir, and where, he was given merciless beatings, with the weapons carried in their hand, which results into as many as 15 injuries to the Naresh Kumar alias Dholu (since deceased), and thereafter, he died during treatment in the hospital. The motive which is alleged in the instant FIR, is that Naresh Kumar alias Dholu was alleged to have an illicit relation with the wife of Dharambir, co-accused non-applicant, and the deceased has also taken Rs 70,000/- from Dharambir as a loan, which he did not return. The relevant extract of the FIR (supra), which has been culled out by the learned Sessions Judge concerned, while declining the relief of regular bail reads as under:-

*“As per prosecution version, complainant Mukesh Kumar alias Amit son of Balvir Singh Soni, got recorded his statement to the police alleging that his younger brother Naresh Kumar, who was*



*unmarried, used to work as vegetable vendor in partnership with Dharambir (accused). On 12.06.2021 his brother Naresh Kumar went to the fields along with his mother Roshni Devi on the motorcycle of Dharambir Singh, for fetching green fodder for the cattle. The complainant further submitted that his mother Roshni Devi informed him that Naresh Kumar had received a telephonic call from Tannu (petitioner) wife of Dharambir, who called him at her house. Thereafter, Naresh Kumar, after leaving his mother at the field, went to the house of Tannu, where accused Dharamvir Singh, his wife Tannu, Shyam Sunder, Ramesh sons of Kalu Ram, Hans Raj son of Bala Ram, Dhann Raj son of Mani Ram, Surender son of Kalu Ram, Chhinder son of Lilu Ram, Sharwan Jakhar and Hardayal Brahaman, Kalia son of Om, residents of Chautala, were already present as per the conspiracy and they started thrashing Naresh Kumar at about 9/10-00 A.M. The complainant received a telephonic call from an unknown person that his brother Naresh Kumar had been tied in the house of Dharamvir and the above said persons were thrashing him. On receiving this information, he and his cousin Suresh Kumar reached at the spot. They saw that Dharamvir armed with a lathi, Shyam Sunder, armed with a Danda, Ramesh, armed with a Ghota, Dhannraj, armed with a Danda, Hansraj, armed with a rubber pipe, Surender, Chhinder, Sharwan Jakhar, Hardyal and Kalia, armed with Dandas were inflicting injuries to Naresh Kumar. Ramesh gave a Ghota blow on the head of Dholu as a result of which Naresh became unconscious. Thereafter, all the assailants told that they had done whatever they wanted. The complainant and his cousin got admitted Naresh Kumar in General Hospital, Chautala, where he succumbed to his injuries. The motive behind the occurrence was that the above said assailants used to accuse Naresh Kumar that his conduct with the wife(Tannu) of Dharamvir Singh was not proper, and Naresh Kumar had to take 770,000/- from Dharamvir Singh which was earlier borrowed by him (Dharamvir). The complainant prayed for taking strict action against the above said assailants.”*



***SUBMISSIONS MADE BY LEARNED  
COUNSEL FOR THE PETITIONERS***

5. Learned counsel for the petitioners in both the petitions have made the following joint submissions :-

- (i) that there is no specific allegation against any of the petitioners as there is no attribution of injuries, though there are allegations that they were present with the blunt weapons of offence, and caused injuries to the deceased;*
- (ii) that in the instant case, no motive is attributed to the present petitioners, rather, the motive, if any, is attributed to the co-accused Dharambir;*
- (iii) the petitioners have faced incarceration of more than 3 years and 4 months, as on today, and they have clean antecedents;*
- (iv) that till date, the prosecution has not moved an inch since the last two years, therefore, the right to speedy trial, as envisaged under Article 21 of the Constitution of India, has been infringed.*

6. The submissions made by the learned counsel for the petitioners have been strongly opposed by the learned State counsel. He submits that the deceased has suffered as many as 15 injuries, and the instant case is an eye witness account, where, it is alleged that all the petitioners have caused injuries with their respective weapons, which they were carrying in their hands at the time of commission of crime. Therefore, the petitioners cannot seek the relief of regular bail, solely on the ground, that no specific injury is attributed to them. The custody



certificate qua Hansraj-petitioner has been filed today in Court by the learned State counsel, and the same is taken on record. The learned State counsel further informed this Court that the final report in this case was filed way back on 9.9.2021, and charges were framed on 5.10.2021 and till date only one witness has been examined, out of a total 22 witness cited by the prosecution in its final report, and the next date fixed before the learned trial court concerned is 11.12.2024.

7. This Court has considered the rival submissions made by the learned counsel for the parties, and also gone through the case file.

8. In the instant case, though there are specific allegations that the petitioners along with other co-accused have caused injuries to the deceased, however, considering the fact that the petitioners have suffered incarceration of approximately 3 years and 3 months, as on today, and till date only one witness has been examined so far, out of a total 22 witnesses cited by the prosecution. Considering the role attributed to the present petitioners, the motive as discussed above, and the days of incarceration suffered by the petitioners, and the stage of the trial, this Court deems it appropriate to extend the benefit of regular bail to all the three petitioners. Therefore, both the present petitions are **allowed**.

9. The petitioners are ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

10. However, anything observed here-in-above shall have no effect



on the merits of the case and is meant for deciding the present petition only.

11. It is made clear that in case the petitioners, after getting the relief of regular bail, tried to adopt any delaying tactics by not appearing on each and every date, without most compelling circumstances, the petitioners would be dis-entitled in future, for seeking regular bail in the instant case, till the final disposal of the trial.

November 07, 2024

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( KULDEEP TIWARI )  
JUDGE

*Whether speaking/reasoned ?*    *Yes/No*  
*Whether Reportable ?*                *Yes/No*