

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

1.

CRM-M-27952-2023

2024:PHHC: 021182

VIRENDER PARTAP

.... PETITIONER

Vs.

STATE OF HARYANA

.... RESPONDENT

2.

CRM-M-26912-2023

2024:PHHC: 021183

ABHISHEK RAJNARAYAN GUPTA

.... PETITIONER

Vs.

STATE OF HARYANA

.... RESPONDENT

Reserved on: 13.02.2024
Pronounced on: 14.02.2024

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr.Jasdev Singh Thind, Advocate,
for the petitioner (in CRM-M-27952-2023)

Mr. Vikas Bishnoi, Advocate,
for the petitioner (in CRM-M-26912-2023)

Mr.Sumit Jain, Addl. AG, Haryana.

DEEPAK GUPTA, J.

In the two petitions titled above, both filed under Section 439 CrPC, petitioners pray for their release on regular bail in case FIR No.947 dated 05.08.2022 (Annexure P1) under Sections 114/ 120B/ 302/ 323/325/450/34 IPC and Section 25 of the Arms Act, registered at Police Station, Sadar Hisar.

2. Separate status reports in both the cases have been filed.

3.1 FIR was lodged on the statement of Anil Kumar son of Ram Singh, resident of Village Dobhi, District Hisar, made on 05.08.2022, as per

which his uncle Ram Kumar was living in a *Dhani* (house) along with his wife Bimla, son Sunil (deceased) and daughter-in-law Roshni (co-accused) for the last about 2 years. Marriage of Sunil was solemnized on 12.09.2021 with Roshni d/o Dharampal r/o Bhirani.

3.2 On that day i.e. 05.08.2022, at about 4:00 in the morning, he came to know that some unknown persons had caused injuries to his uncle-Ram Kumar, aunt Bimla and brother Sunil. He along with other family members reached the *Dhani* and found Sunil to be lying dead with numerous injuries on his person, whereas his uncle Ram Kumar and aunt Bimla had received serious injuries. After arranging vehicle, they took them to Midda Hospital, Bagla for treatment.

3.3 It was further disclosed by Anil Kumar that whereabouts of Roshni wife of Sunil were not available. Prior to the marriage, Roshni had gone to Bihar with Atul @ Amit son of Prem Kishore Parshad, regarding which a case had been registered. After marriage of Sunil with Roshni, Atul @ Amit had filed an application before Hon'ble Supreme Court claiming Roshni to be his wife, but Roshni had made a statement that Sunil was her husband and that she was living with him. Complainant-Anil stated further that Atul @ Amit used to threaten the parents of Roshni that he will take her away. Because of all this, he (complainant) had suspicion that the incident had been committed by Atul @ Amit with his companions and in connivance with Roshni. FIR was registered.

4.1 During investigation, place of occurrence was visited. Physical evidence was collected. Postmortem on the dead body of Sunil was got conducted.

4.2 Main accused Atul @ Amit besides co-accused Parkash Deva

Nand, Manisha Vipin and Roshni (wife of deceased Sunil) were arrested on 07.08.2022 and Section 114 IPC was added. On interrogation, main accused Atul @ Amit suffered disclosure statement stating therein that he was madly in love with Roshni, who had eloped with him in 2021, but they were caught by Rajasthan Police and were produced in the Court. At that time, Roshni did not make any statement against him and so, he was released. He then filed petition before Delhi High Court, but Roshni made statement that Sunil was her husband and so, his petition was dismissed. Atul @ Amit disclosed further that he wanted the company of Roshni in any situation, but Roshni did not have her own phone. On 15.04.2022, he received a call of Roshni, who asked him to take her away. Atul @ Amit disclosed that he contacted his friend Parkash Deva Nand, who had performed love marriage with Manisha and both of them were sent to the village of Roshni, where as per plan, they started selling bangles and on that pretext contacted Roshni. All of them made a plan to take Roshni away from the village. Atul @ Amit disclosed further that he took a sim in the name of Abhishek Rajnarayan Gupta (*petitioner in CRM-M-26912-2023*) and shared his plan with him and also with Virender Pratap (*petitioner in CRM-M-27952-2023*). All of them came to the village of Balasamad Dhobi. The taxi was booked online by Abhishek Rajnarayan Gupta. It was disclosed further by him that Parkash Deva Nand and Manisha had told him that Roshni had asked them to inform him that till Sunil is alive, he will not allow them to take her away. It was also disclosed by Atul @ Amit that he along with Parkash Deva Nand and Manisha had gone to the spot, where he along with Parkash Deva Nand killed Sunil. Manisha was kept standing outside and then all of them took Roshni away.

4.3 During further investigation, co-accused Virender Pratap (*petitioner in CRM-M-27952-2023*) was arrested on 08.08.2022. On his interrogation, he suffered disclosure statement admitting his involvement in the crime and got recovered a mobile phone besides scooty and knife used in the commission of crime. Accused Abhishek Rajnarayan Gupta (*petitioner in CRM-M-26912-2023*) was arrested on 12.08.2022 and one mobile used in the crime besides a car were recovered from him.

4.4 After completion of investigation, final report under Section 173 CrPC was filed. Charges have been framed by the Court against all six accused including the petitioners on 13.02.2023. There are 34 witnesses in the case, out of which 8 have already been examined.

5. It is contended by ld. counsel for the petitioners that they have been falsely implicated; that their name does not find mentioned in the FIR; that they have been named on the basis of disclosure statement suffered by the co-accused. Ld. counsels for the petitioners have also placed on record copy of the statement of injured Ram Kumar @ Basti Ram, recorded on 09.08.2022 under Section 161 CrPC, in which he has named Atul @ Amit and Parkash Deva Nand to be the assailants and that Manisha was standing outside the wall and that after causing injuries to him (Ram Kumar) and Bimla and killing Sunil, these assailants had also helped Roshni in scaling the wall towards other side and Roshni was also telling that till Sunil was alive, he will not allow them to take her away. Ld. counsel contends that in the said statement of Ram Kumar, no role of any of the petitioners has emerged. It is pointed out that petitioners are in custody for the last more than 1 year and 5 months and that trial may take time to conclude and so, they be granted bail.

6. Opposing both the petitions, Id. State counsel contends that both the petitioners were part of conspiracy to commit the crime. Both of them had also gone to the village of deceased, where the crime took place and that a mobile and Ertiga car used in the crime were recovered from Abhishek Rajnarayan Gupta (*petitioner in CRM-M-26912-2023*); whereas knife used in the crime besides a scooty and mobile were recovered from Virender Pratap (*petitioner in CRM-M-27952-2023*). Prayer is made for rejecting the petitions.

7. I have considered statements of both the sides and have appraised the record carefully.

8. In the FIR lodged on the statement of Anil, though Atul @ Amit and Roshni are suspected to be responsible for the crime, but nobody else has been named. In the statement of injured Ram Kumar, the name of co-accused Atul @ Amit besides Parkash Deva Nand and Manisha have emerged, who had come to the spot and that Atul @ Amit and Parkash Deva Nand inflicted injuries to both the injured Ram Kumar and Bimla besides to deceased Sunil, whereas Manisha was standing outside and then all of them took Roshni away, who was also telling them that till Sunil was killed, he will not allow them to take her away. The name of the petitioners have emerged for the first time in the disclosure statement of co-accused Atul @ Amit and based thereon, the recovery of mobile, knife and vehicles have been effected. However, it is Atul @ Amit and Parkash Deva Nand, who are attributed to have inflicted the injuries with knife. Petitioners are only alleged to be the participants in the conspiracy.

9. As per the custody certificate, Abhishek Rajnarayan Gupta (*petitioner in CRM-M-26912-2023*) is in custody for the last 1 year 5

months and 24 days with no criminal antecedents. Similarly Virender Pratap (*petitioner in CRM-M-27952-2023*) is in custody for the last 1 year 6 months and 3 days with no criminal antecedents. There being long list of 34 prosecution witnesses, trial is likely to take long time to conclude.

10. Having regard to all the aforesaid facts and circumstances, but without commenting anything further on merits of the case, this court is of the view that no purpose shall be served by keeping the petitioners detained. As such, both petitions are allowed. Petitioners are admitted to regular bail on their furnishing requisite bail bonds and surety bonds to the satisfaction of the Ld. trial Court/Duty Magistrate concerned, on usual terms and conditions.

A photocopy of this order be placed on the file of the other connected case.

14.02.2024

Vivek

(DEEPAK GUPTA)

JUDGE

1. Whether speaking/reasoned?

Yes

2. Whether reportable?

No