

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH  
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I. CRM-M-35106-2023  
Anubhav .....Petitioner  
Vs.  
State of Haryana .....Respondent

II. CRM-M-31283-2023  
Vijay Arya .....Petitioner  
Vs.  
State of Haryana .....Respondent

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Reserved On.: 14.03.2024  
Pronounced On: 20.03.2024  
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CORAM: - HON'BLE MR. JUSTICE DEEPAK GUPTA

Argued By: Mr. Abhinav Singh, Advocate for  
Mr. Sandeep Sharma, Advocate for  
the petitioner.  
  
Mr. Sumit Jain, Addl. AG, Haryana.

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DEEPAK GUPTA, J.

This order shall dispose of two petitions titled above, both filed under Section 439 Cr.P.C., as petitioners pray for their release on regular bail in a case arising out of FIR No.162 dated 22.05.2022 registered at Police Station Industrial, Sector-7, IMT Manesar, Gurugram, District Gurugram under Sections 302, 34, 392, 397 of the IPC and Section 25(1B)(a) of Arms Act.

2. Separate status report by way of an affidavit of Shri Surender Sheoran, HPS, Assistant Commissioner of Police, Manesar, Gurugram on behalf of respondent- State has been filed in both the cases.

3. FIR was lodged on the statement of Ajay Kumar son of Sultan Singh, residing with his family in Village Kharkari, Bilaspur, Gurugram. On 21.05.2022, his brother Ashish after closing his shop at Village Aliyar (Dhana), Manesar was returning towards his home on his motorcycle bearing registration No.HR-26-EM-5407 Apache. At about 10:20 p.m. father of the complainant received a call from the would be wife of Ajay, informing him that as Ashish was coming on the motorcycle in routine and was talking to her, someone stopped him. Ashish was telling them that they could take whatever they wished but they should not kill him. On getting this information, complainant Ajay along with his father went towards Aliyar Village. After crossing KMP underpass, as they reached near Gaushala, motorcycle of his brother Ashish was seen lying in the bushes. Police was called. Mobile number of Ashish was not being answered. Police went inside the bushes near the motorcycle and found Ashish lying in an unconscious state with lot of injuries on his head. With the help of police, complainant got his brother admitted in Medanta Hospital, Gurugram. Mobile of his brother had been snatched away by unknown persons.

4.1 On 22.05.2022, Ashish succumbed to the injuries. Proceedings under Section 174 Cr.P.C. were conducted. Post-mortem examination of the deceased disclosed the cause of death to be head injury due to shock and

haemorrhage on account of ante-mortem sharp weapon injuries, which were sufficient to cause death in normal course of nature. During further investigation, spot of crime was inspected. Scene of crime team was called. Blood stains from road and from the motorcycle of the deceased and other physical evidence was collected.

4.2 On the basis of secret information, accused Anubhav (*petitioner in CRM-M-35106-2023*) was arrested on 08.06.2022. His disclosure statement was recorded and then, accused Ravi, and Vijay Arya (*petitioner in CRM-M-31283-2023*) were arrested on 08.06.2022 on the identification of Anubhav. Police remand of the accused was obtained. Petitioner Anubhav got recovered knife used in the crime, besides looted mobile of the deceased, clothes and shoes worn by him at the time of committing the crime. Accused Ravi got recovered silver chain and ear phone besides lead looted from the deceased and also the clothes and shoes worn by him at the time of committing the crime. Accused Vijay Arya (*petitioner in CRM-M-31283-2023*) got recovered one country-made pistol, two live cartridges, two sim cards besides the clothes and shoes worn by him at the time of crime. The recovered silver chain, earrings etc. were identified by the complainant. Case property was sent to RFSL, Bhondsi for necessary examination.

4.3 After concluding the investigation, final report under Section 173 Cr.P.C. was submitted in the Court. Charges have since been framed. Case is now fixed for prosecution evidence.

5. It is contended by learned counsel for both the petitioners that FIR

was lodged against unknown persons; that there is no incriminating material against the petitioners; that recovery has been planted upon them; that petitioners are in custody for the last more than 01 year and 09 months; that trial may take time to conclude and so, they be allowed bail.

6. Learned State counsel has opposed both the petitions by pointing out towards the gravity of the offence and the nature of incriminating evidence collected against them during investigation. Learned State counsel submits that material witnesses are yet to be examined and in case petitioners are allowed bail, they may influence the witnesses. Attention is also drawn towards the fact that punishment provided under Section 302 of the IPC may extend up to death.

7. I have considered submissions of both the sides and have perused the record.

8. Allegations against the petitioners are quite grave. Offence under Section 302 of the IPC entails punishment up to death. Having regard to the nature of allegations, it cannot be expected that assailants/petitioners could be named in the FIR and so, this in itself cannot be a reason to disbelieve the prosecution story. Incriminating evidence has been collected against the petitioners including the recovery of mobile of the deceased; other articles belonged to the deceased, the weapon of offence used in the crime besides the clothes worn by the petitioners and other accused at the time of committing crime. All this evidence is to be scrutinized during trial.

9. Having regard to all the aforesaid facts and circumstances, but

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without commenting anything further on the merits of the case, this Court is not inclined to grant benefit of regular bail to any of the petitioners.

Dismissed.

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

( DEEPAK GUPTA )  
JUDGE

March 20, 2024

Neetika Tuteja

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|---------------------------|--------|
| Whether Speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |