

(i) CRM-M-48214-2022

VS.

(ii) **CRM-6048-2024 in/and
CRM-M-61767-2023**

VS.

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Mr. Akshay, Advocate with
Mr. Gourav Sharma, Advocate and
Mr. Yashdeep Nain, Advocate
for the petitioner in CRM-M-61767-2023.

CRM-6048-2024 in/and CRM-M-61767-2023

Main cases:

1. This order shall dispose of above-said two petitions i.e. CRM-M-48214-2022, titled as Ashok @ Pardhan @ Shauki Vs. State of Haryana and CRM-M-61767-2023, titled as Deepak @ Rohit @ Bali Vs. State of Haryana.

whereby the petitioners have prayed for grant of bail to them in case FIR No. 221 dated 22.03.2017 registered under Sections 302, 120-B, 307, 332, 353, 186, 34 of IPC and Sections 25/54/59 of Arms Act, at Police Station Jhajjar, District Jhajjar. (FIR was registered under Sections 25/54 of Arms Act, r/w Sections 307, 332, 34, 353 of IPC but Section 59 of Arms Act and Sections 120-B, Section 302 IPC was added in the challan).

2. Learned counsel for Deepak @ Rohit @ Bali, petitioner in CRM-M-61767-2023, submits that the petitioner was arrested in the present case on 22.03.2017 and is in custody for the last about 06 years and 10 months. He further contends that only 21 witnesses, out of total 46 witnesses have been examined so far and the prosecution has intentionally delayed the trial before the trial Court, just to ensure the longer incarceration of the present petitioner. Learned counsel further contends that even the recovery of pistol from the present petitioner was doubtful in nature and the report submitted by the FSL did not advance the case of the prosecution in any manner. Learned counsel further relies on the orders Annexure P-4, P-9 and P-10, whereby, co-accused Sikander @ Rohit, Rohit @ Lamba and Gaurav @ Monty have been admitted to bail in the present case.

3. Learned counsel for Ashok @ Pardhan alias Shauki, petitioner in CRM-M-48214-2022 submits that even as per the admitted case of the prosecution, the petitioner had not actively participated in the commission of crime and it has been falsely alleged that the crime was committed at his instigation. Learned counsel further contends that the petitioner was arrested in the present case on 26.10.2021 and is in custody since then. He further contends that the entire prosecution case primarily hinges on the testimonies of

the official witnesses and the petitioner may not be in a position to tamper with the prosecution evidence, at this stage.

4. Learned counsel for the petitioners have relied upon the judgments passed by the Hon'ble Supreme Court in the matter of **“Ranjan Dwivedi Vs. CBI, through the Director General, 2012(8) SCC 495; 2012 (4) RCR (Criminal) 880”** and **Gudikanti Narasimhulu and others v. Public Prosecutor, AIR 1978 SC 429.**

5. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioners on the ground that the petitioners had killed Rajiv, who was produced before the Court of Additional Sessions Judge, Jhajjar in District Court Premises, Jhajjar. She further contends that the FSL report produced by the prosecution conclusively proves the case against Deepak @ Rohit. She has further expressed the apprehension that the accused might repeat the crime and may abscond the process of law.

6. I have heard learned counsel for the parties and perused the record.

7. From the record, it is apparent that co-accused Sikander @ Rohit, Rohit @ Lamba and Gaurav @ Monty have already been admitted to bail in the present case. Apart from that, Deepak @ Rohit, petitioner is in custody for the last about 06 years and 10 months, whereas, other petitioner, i.e. Ashok @ Pardhan alias Shauki is in custody for the last about 02 years and 03 months. However, the prosecution has only been able to examine 21 witnesses, out of total 46 witnesses in the present case, so far.

8. Thus, keeping in view the submissions made by learned counsel for the parties and the law laid down by the Hon'ble Supreme Court in the matter of

“Ranjan Dwivedi's case (supra) and Gudikanti Narasimhulu's case (supra),

both the petitions are allowed and the petitioners are ordered to be released on bail subject to their furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned, subject to the following conditions:-

- (i) *The petitioners shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade them to disclose such facts to the Court or to any other authority.*
- (ii) *The petitioners shall remain present before the Court on the dates fixed for hearing of the case.*
- (iii) *The petitioners shall not absent themselves from the Court proceedings except on the prior permission of the Court concerned.*
- (iv) *The petitioners shall surrender their passport, if any, (if already not surrendered), and in case they are not holder of the same, they shall swear an affidavit to that effect.*
- (v) *The petitioners shall also file their affidavit before the concerned Court, mentioning their ordinary place of residence and number of mobile phone, which shall be used by them during the pendency of the trial. In case of change of place of residence/mobile number, they shall share the details with the concerned Court/learned Trial Court.*
- (vi) *In case, the petitioners involve in any other criminal activity, during the pendency of the trial, it shall be viewed seriously and the prosecution shall be at liberty to move a petition for cancellation of bail granted to them.*
- (vii) *The concerned Court may insist on two heavy local sureties and may also impose any other condition, in accordance with law, while accepting the bail bonds and surety bonds of the petitioners.*
- (viii) *The petitioners shall report every 1st and 3rd Monday of*

English calander month before the concerned SHO till the conclusion of the trial and SHO shall mark their presence by making an entry in the rojnamcha. In case, they do not report on every 1st and 3rd Monday before the concerned SHO, it shall be viewed seriously and the concession granted to them shall be liable to be cancelled and the State of Haryana shall be at liberty to move an appropriate application in this regard.

08.02.2024
hemlata

(N.S.SHEKHAWAT)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No