

223 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Decided on : 26.02.2024

CRM-M-45101-2023

Vishal @ Vishal Kumar @ Bhaiya Petitioner

Versus

State of Punjab Respondent

CRM-M-53376-2023

Akshay Kumar Petitioner

Versus

State of Punjab Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. D.S.Gandhi, Advocate
for the petitioner in CRM-M-45101-2023.

Mr. Raghav Soni, Advocate
for the petitioner in CRM-M-53376-2023.

Mr. P.S.Bhandari, AAG, Punjab.

Manjari Nehru Kaul, J.(Oral)

This order shall dispose of above-said two criminal petitions as both of them have arisen out of same FIR. Brief facts of the case are taken from CRM-M-45101-2023.

1. Instant petition has been filed by the petitioner seeking concession of regular bail in case FIR No.82 dated 01.04.2021 under Sections 302, 506, 148, 120-B and 149 IPC and Sections 25/27/54/

59 of Arms Act registered at Police Station Sadar, Amritsar.

2. Learned counsel for the petitioners *inter alia* contend that the petitioners have been falsely implicated in the case in hand for allegedly participating in the occurrence in question wherein mother of the complainant was inflicted injuries by co-accused along with some unidentified persons, as a result of which, she died. While drawing the attention of this Court to the FIR, which has been annexed as Annexure P-1, it has been submitted that it was a matter of record that though the complainant had named some accused, however, neither were the petitioners named therein nor any specific role attributed to the petitioners in the crime in question. It has also been submitted that the petitioners came to be nominated as an accused later on, on the basis of a disclosure statement allegedly suffered by co-accused Sahil Gupta, who stated that the unidentified persons, who had accompanied the other accused to the place of occurrence, were the petitioners. Learned counsel has further submitted that even otherwise, a perusal of the FIR reveals that no specific role much less any lalkara had been attributed to the petitioners at the time of alleged occurrence. It has, thus, been urged by the learned counsel that since the evidentiary value of such disclosure statement on the basis of which petitioners have been arrayed as an accused is of a weak nature and still further, no whisper was raised qua the involvement of the petitioners in the crime in question at the time of registration of FIR, they deserved to

be enlarged on bail as they have now been in custody since 21.04.2021 and 22 prosecutions witnesses out of 31 cited still remain to be examined.

3. Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, on instructions, has submitted that no doubt, the petitioners were not named in the FIR in question, however, the complainant had categorically stated that co-accused Sunny Gill was accompanied by some unidentified persons. He has further submitted that in the disclosure statement made by co-accused Sahil Gupta not only did the names of the petitioners surface but it had also been stated therein that it was petitioner Vishal, who had handed over the weapon of offence i.e. pistol to the main accused Sunny Gill, who then inflicted fatal injuries upon the deceased. Learned State counsel has submitted that it had been categorically alleged in the FIR that after giving effect to the crime in question, all the accused including the unidentified persons had fled away from the place of occurrence after openly brandishing their weapons. Learned State counsel has further submitted that since the prosecution evidence is still underway, the petitioners, who are men of criminal antecedents, be not enlarged on bail as there is every likelihood that they could tamper with material evidence and also try to intimidate/influence the material witnesses in the case in hand. Learned State counsel has placed on record the custody certificates of both the petitioners and submitted that there are

as many as 24 criminal cases registered against Vishal and 17 criminal cases against Akshay Kumar.

4. I have heard learned counsel for the parties and perused the material placed on record including the FIR in question.

5. The case in hand rests on eyewitness account. *Prima facie*, it appears to be a pre-mediated attack, which was carried out by all the accused, who came to the place of occurrence armed with firearms. In the occurrence in question, the mother of the complainant lost her life.

6. In the facts and circumstances as enumerated hereinabove, this Court does not deem it fit to extend the concession of regular bail to the petitioners. Accordingly, the instant petitions are dismissed. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

7. At this stage, a prayer has been made by learned counsel for the petitioner for issuance of directions to the trial court to conclude the trial expeditiously as the petitioner has been in custody since 21.04.2021.

8. Keeping in view the long period of incarceration of the petitioner, the trial court is directed to make earnest efforts to conclude the trial expeditiously preferably within a period of six months.

26.02.2024
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(MANJARI NEHRU KAUL)
JUDGE

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