

CRM-M-48317-2022 (O & M)
(228 & 313)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 15.02.2024

(1) CRM-M-48317-2022 (O& M)

Ritik Malhotra
V/s
State of Punjab

.... Petitioner

...Respondent

(2) CRM-M-1052-2024 (O& M)

Vishal Kumar @ Chhota Don
V/s
State of Punjab

.... Petitioner

...Respondent

CORAM: HON’BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Vaibhav Narang, Advocate
for the petitioner(s) (in CRM-M-48317-2022).

Mr. Deepak Arora, Advocate,
for the petitioner (in CRM-M-1052-2024).

Mr. Deepinder Singh Brar, Sr. DAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

This order shall dispose of two criminal miscellaneous petitions
i.e. CRM-M-48317-2022 and CRM-M-1052-2024 as they arise out of the
same FIR.

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2. For the sake of convenience, the facts are being taken from the petition bearing No. CRM-M-1052-2024.

3. The prayer in the present petitions under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner-Ritik Malhotra (in CRM-M-48317-2022) and Vishal Kumar @ Chhota Don (petitioner in CRM-M-1052-2024) in case FIR No.128 dated 03.12.2021 under Sections 302/341/364/148/149/201 IPC read with Sections 25/27/54 and 59 of the Arms Act, registered at Police Station D-Division, Amritsar (Annexure P-1).

4. The present FIR came to be registered at the instance of Ravinder Kumar who stated that his injured son-Rahul who subsequently died on account of injuries sustained by him had disclosed to him that a number of accused including the present petitioners had brutally assaulted him (deceased-Rahul).

5. The learned counsels for the petitioners contend that the statement of the complainant-Ravinder Kumar, his wife-Geeta and an eye witness-Sanjeev Kumar had been recorded as PW-1, PW-2 and PW-3 respectively and none of them had supported the prosecution case. As the petitioners-Ritik Malhotra and Vishal @ Chhota Don were in custody since 25.05.2022 and 06.03.2022 respectively and only 03 material witnesses out of the 39 cited in the list of witnesses had been examined so far, the Trial of the present case was not likely to be concluded anytime soon. Therefore, the petitioners were entitled to the concession of bail even though they had other cases registered against them.

6. The learned counsel for the State, on the other hand, has filed separate replies dated 15.02.2024 in both the petitions which are taken on

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record. While referring to the said replies, he contends that the petitioner-Ritik Malhotra (in CRM-M-48317-2022) was under-trial in two cases, though, the petitioner-Vishal Kumar @ Chhota Don (in CRM-M-1052-2024) has clean antecedents. The offence stood established from the statement of the deceased-Rahul made to his father-Ravinder Kumar (complainant/PW-1). Therefore, the petitioners were not entitled to the grant of bail. She, however, concedes that the statements of all the three material witnesses, namely, PW-1/Ravinder Kumar (complainant), Geeta-PW-2 (mother of the deceased-Rahul) and PW-3/Sanjeev Kumar (a purported eye-witness) had been recorded and none of them had supported the prosecution case.

7. I have heard the learned counsel for the parties.

8. Admittedly, all the three material witnesses have been examined and none of them have supported the prosecution case. Whether the other evidence available on record is sufficient to affix liability upon the petitioners shall be adjudicated upon during the course of the trial. Admittedly, the petitioners are in custody since 25.05.2022 and 06.03.2022 respectively and as many as 36 prosecution witnesses are yet to be examined. Therefore, the trial of the present case is not likely to be concluded anytime soon. Though the petitioner-Ritik Malhotra (in CRM-M-48317-2022) has other cases registered against them, in the present factual scenario, the further incarceration of the petitioners is not required.

8. Thus, without commenting upon the merits of the case, the present petitions are allowed and the petitioners, namely, Ritik Malhotra (in CRM-M-48317-2022) and Vishal Kumar @ Chhota Don (in CRM-M-1052-

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2024) are ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. The petitioners shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish an affidavit each time that they are not involved in any case(s)/crime(s) other than those referred to in this order.
10. In addition, the petitioners (or anyone on their behalf) shall prepare an FDR in the sum of Rs.50,000/- each and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioners from Trial without sufficient cause.
11. Both the petitions stand disposed of.

(JASJIT SINGH BEDI)
JUDGE

February 15, 2024
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No