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Date of Decision:- 09.05.2024
CRM-M-54247-2023 (O&M)

1.

....Petitioner(s)

Versus

...Respondent(s)

2.

CRM-M-61849-2023 (O&M)

....Petitioner(s)

Versus

...Respondent(s)

Present : Mr. Anuj Arya, Advocate
for the petitioner in CRM-M-54247-2023.

Mr. Sanpreet Sandhu, Advocate
for the petitioner in CRM-M-61849-2023.

Mr. Surender Singh, AAG Haryana.

* * * * *

SANJIV BERRY, J. (ORAL)

This common order shall dispose of the above-mentioned two criminal miscellaneous petitions as they arise out of the same FIR.

2. The instant petitions have been preferred by the petitioners under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioners in the following case:-



FIR No.	Dated	Sections	Police Station
254	22.04.2022	302, 120-B and 34 IPC; 25 of the Arms Act, 1959	City Sonipat, District Sonipat

3. It is, *inter alia*, contended by learned counsel for the petitioners that the petitioners are innocent and have been falsely implicated in the case on the allegation that they have committed murder of brother of the complainant. They contend that the petitioners are in custody since 25.04.2022 and 28.04.2022 respectively and during the course of trial the material witnesses have turned hostile. They contend that even the complainant and eye-witness have not supported the case of the prosecution against the petitioners. As such, they pray for grant of regular bail to the petitioners.

4. *Per contra*, learned State counsel while referring to the reply/status report submitted in the respective petitions by the State and on instructions from ASI Naresh Kumar, submits that the petitioners have been charged for having committed murder of Ved Parkash, who is brother of the complainant. As such they do not deserve the concession of bail. However, he has admitted that both the material witnesses i.e. the complainant and eye-witness have not supported the case of prosecution and other witnesses cited by the prosecution are official witnesses, who have not seen the occurrence.

5. Heard.

6. After considering the respective submissions and perusing the record, it transpires that the instant FIR was registered on the complaint



moved by the complainant-Surender stating that his brother Ved Parkash had performed marriage with Kanika daughter of petitioner-Vijaypal and later petitioner-Vijaypal and his relatives had murdered the said Kanika regarding which an FIR was registered against them in the year 2015. During the course of proceedings of that case, when Ved Parkash along with the present complainant had gone to Court on 22.04.2022, two unidentified persons came on motorcycle and fired at Ved Parkash, as a result of which he died. Thereafter, the petitioners were arrested in the case and after the completion of investigation, challan was presented in the Court, wherein the Police had cited the complainant/Surender and eye-witness/Vishal as material witnesses in the challan. During the course of trial, both these material witnesses i.e. complainant and eye-witness have turned hostile and not supported the case of the prosecution against the petitioners and have given clean chit to the petitioners. Admittedly, the other witnesses cited by the prosecution, 30 in all, are official witnesses and are not witnesses of the occurrence. The conclusion of trial to ascertain the criminal liability, if any, of the petitioners, will take sufficient long time and considering the fact that material witnesses have not supported the case of prosecution against the petitioners, therefore, no purpose would be served by detaining the petitioners in custody any longer.

7. In these circumstances, without commenting on the merits of the case, the present petitions are allowed. The petitioners are ordered to be released on bail subject to their furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court/Duty Magistrate concerned, if not



required in any other case; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

- 8. Any observation made above shall not be construed as opinion of this Court on the merits of the case.
- 9. Pending miscellaneous application(s), if any, stand disposed of.

(SANJIV BERRY)
JUDGE

09.05.2024
S.Sharma(syr)

i)	Whether speaking/reasoned?	Yes/No
ii)	Whether reportable?	Yes/No