

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-58088 of 2023

Ravi Faujdar

.....Petitioner

versus

State of Haryana

.....Respondent

Crl. Misc. No. M-61766 of 2023

Sagar

.....Petitioner

versus

State of Haryana

.....Respondent

Date of Decision: February 12, 2024

CORAM: HON'BLE MR.JUSTICE HARPREET SINGH BRAR

Present:- Dr. Pankaj Nanhera, Advocate,
Mr. Rahul Gautam, Advocate and
Mr. Deepender Pratap Singh, Advocate
for the petitioner in Crl. Misc. No. M-58088 of 2023

Mr. B.S. Sarora, Advocate
for the petitioner in Crl. Misc. No. M-61776 of 2023

Ms. Geeta Sharma, DAG Haryana

Harpreet Singh Brar, J. (Oral)

- Both the petitions are being decided by the common order.
However, the facts are being taken from CRM-M-58088-2023.
- This is the first petition filed under Section 439 of Cr.P.C. seeking
grant of regular bail to the petitioner(s) in the case bearing FIR No. 460 dated

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24.07.2023 registered under Sections 148, 149, 160, 285, 307, 323, 325, 336, 34 IPC and Section 25 of Arms Act at Police Station City Ballabgarh, District Faridabad.

3. The present FIR was lodged on the allegations that on 24.07.2023, the police party heard gunshot from the parking area situated in the back side of bus stand. The police party headed by the complainant reached at the spot and found many youngsters were carrying sharp edged weapons and fire arm weapons and there was firing in the air to create terror and with intention to endanger the life of citizens. The police party apprehended three persons who disclosed their names as Bhupendra, Sagar and Amit and after recording the disclosure statements, respective weapons from their possession were recovered.

4. Learned counsel for the petitioner(s) *inter alia* contends that no specific injury or role has been attributed to the petitioner(s). The petitioner–Ravi Faujdar was not even named in the FIR. The petitioner–Sagar was not alleged to have caused any injury, however, sword was allegedly recovered from his possession. Learned counsel for the petitioner(s) further contends that the investigating officer has invoked the provision of Section 307 of Indian Penal Code only to aggravate the offence and make it non-bailable and similarly situated co-accused namely Amit, who was arrested at the spot and in whose possession one sharp edged weapon iron *axe* was recovered has been granted concession of regular bail by this Court vide order dated 05.02.2024 passed in CRM-M-49647-2023.

5. Per contra, learned State counsel opposes the prayer of grant of regular bail to the petitioner on the ground that petitioner–Sagar was arrested at the spot and his active participation in the alleged incident is fully established.

Moreover, the petitioners were seen present at the spot in the CCTV footage obtained from the area.

6. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner–Sagar is behind the bars since 24.07.2023 and petitioner–Ravi Faujdar is behind the bars since 09.08.2023. The Investigating Agency has completed the investigation and submitted the final report under Section 173 of Cr.P.C. on 19.09.2023. Similarly situated co-accused namely Amit has already been granted concession of regular bail by this Court vide order dated 05.02.2024 passed in CRM-M-49647-2023. The trial of the case is likely to take long time to conclude as none out of 18 prosecution witnesses, has been examined so far. Culpability, if any, would be determined at the time of the trial. So further incarceration of the petitioner without there being the prospect of the conclusion of the trial in the near future, would be violative of Article 21 of the Constitution of India.

7. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the present petition is allowed and the petitioners – Ravi Faujdar and Sagar are ordered to be released on regular bail during trial on their furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/trial Court.

8. Nothing observed hereinabove shall be construed as an expression of opinion of this Court on the merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

(HARPREET SINGH BRAR)
JUDGE

February 12, 2024

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No