

CRM-M-60426-2023

208+210 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-60426-2023 (O&M)
Date of Decision: 27.02.2024

PARDEEP

...Petitioner

V/S

STATE OF HARYANA

...Respondent

CRM-M-3329-2024 (O&M)
Date of Decision: 27.02.2024

BALJEET SINGH

...Petitioner

V/S

STATE OF HARYANA

...Respondent

CRM-M-4873-2024 (O&M)
Date of Decision: 27.02.2024

SAJJAN @ KALA

...Petitioner

V/S

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Aditya Sandhi, Advocate for the
petitioner(s) in CRM-M-3329-2024 and CRM-M-60426-2023.

Mr. Pardeep Duhan, Advocate for the petitioner
in CRM-M-4873-2024.

Ms. Geeta Sharma, DAG Haryana.

HARPREET SINGH BRAR J. (Oral)

1. This order of mine shall dispose of aforementioned petitions as all the petitions are arising out of the same FIR. For brevity, facts are taken from CRM-M-3329-2024 titled as *Baljeet Singh Vs. State of Haryana*.

2. These petitions have been filed under Section 439 of Cr.P.C. seeking grant of regular bail to the petitioners in the case bearing FIR No. 690 dated 03.11.2021 registered under Sections 307, 285, 201, 120-B and

24 of Indian Penal Code and Sections 25, 54 and 59 of Arms Act at Police

Station Azad Nagar, Hisar.

3. The present FIR was lodged on the allegations that on 03.11.2021, complainant Vinod Kumar made a statement that he was the manager of Modern Mega Store, Azad Nagar. On 03.11.2021, at about 4:00 p.m., he was standing in front of his store. His elder brother Sujinder was also standing about 20-25 paces away from the store. In the meantime, three young boys came on a motorcycle and two boys fired upon his brother Sujinder with an intention to kill him. Thereafter, all the three assailants fled away from the spot. The complainant took his injured brother to Sapra Hospital, Hisar where he underwent treatment. He stated that he can identify the assailants, if produced before him. On this information and on the basis of MLR etc., FIR under sections 307, 285, 34 IPC and 25 of Arms Act was registered. During the course of investigation, on 23.11.2021, accused Rohit @ Patwari was arrested. He got demarcated the place of occurrence. Accused/petitioner Sajjan was arrested in the present case on 01.12.2021. During further investigation, offence under section 201 IPC was added in the FIR. On 17.11.2022, accused/petitioner Baljeet was joined in the investigation. He was arrested in this case also. He suffered disclosure statement regarding his involvement in this case. After completion of necessary investigation, police report under Section 173 Cr.P.C. was prepared and submitted in the Court.

4. Learned counsel(s) for the petitioners *inter alia* contend that this is the second petition seeking grant of regular bail to petitioner-Baljeet Singh and the first petition was dismissed as withdrawn on 14.11.2023 (Annexure P-5) and thereafter the complainant-Vinod and injured-Sujinder were examined by the learned trial Court as PW-1 and PW-3 and both of

them have not supported the case of the prosecution and have been declared as hostile. As such, in view of the changed circumstances, the present petitions have been filed. Learned counsel(s) further contend that as per the case set up by the prosecution, initially three persons were nominated as accused, who inflicted injuries upon the brother of the complainant, namely Kuldeep, Mukesh and Sagar and after their arrest they suffered a disclosure statement and named six more persons, which includes the present petitioners. It is further contended that the disclosure statement made, while in police custody, has no evidentiary value in the eyes of law and there is nothing on record to prove the complicity of the petitioners with the alleged incident and the fire arm injury has been specifically attributed to co-accused Kuldeep, Mukesh and Sagar.

5. Per contra, learned State counsel opposes the prayer for grant of regular bail to the petitioner on the ground that petitioner-Baljeet is involved in one more case, whereas petitioners Sajjan @ Kala and Pardeep are involved in number of other cases and as such they are habitual offenders and do not deserve the concession of regular bail. Moreover, their roles have been duly established during the investigation.

6. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that material witnesses have already been examined by the learned trial Court and petitioner Baljeet Singh has been in custody for 01 year 03 months and 12 days, petitioner-Pardeep Kumar has been in custody for 02 years 03 months and 01 day and petitioner-Sajjan is in custody since 01.12.2021 in this case. Trial of the case is progressing at snail's pace as out of 39 cited prosecution witnesses, only 03 have been examined so far. 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. Culpability, if any, would be determined at the time of the trial.

7. In view of the ratio of law laid down by Hon’ble Supreme Court in *Prabhakar Tiwari Vs. State of UP and Anr.* 2020(1) RCR (Criminal) 831 and *Maulana Mohd. Amir Rashadi Vs. State of U.P. and Others* 2012(2) SCC 382, the involvement of accused in other criminal cases cannot be the sole ground to deny him the concession of bail.

8. Accordingly, the present petitions are allowed. The petitioners- Pardeep, Baljeet Singh and Sajjan @ Kala are ordered to be released on regular bail, subject to their furnishing bail/surety bonds to the satisfaction of CJM/Duty Magistrate concerned.

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

27.02.2024

Ajay Goswami

(HARPREET SINGH BRAR)

JUDGE

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