

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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1. CRM-M-63424-2023
Date of decision: 08.04.2024

Rajiv @ Rajiv SinghPetitioner

Versus

State of PunjabRespondent

2. CRM-M-63483-2023
Date of decision: 08.04.2024

Harbhajan Singh @ Tigar @ TigerPetitioner

Versus

State of PunjabRespondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Manu Loona, Advocate
for the petitioners.

Mr. Navdeep Singh, DAG, Punjab.

Mr. B.B.S. Randhawa, Advocate
for the complainant/injured.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioners are seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.170 dated 07.09.2023 under Sections 307/324/323/506/148/149 of the IPC registered at Police Station Sadar Fazilka, District Fazilka.

2. Status report by way of affidavit of Shubeg Singh, PPS, Deputy Superintendent of Police, Sub-Division Fazilka, District Fazilka, in CRM-M-63424-2023, has been filed in the Court today which is taken on record subject to all just exceptions. A copy of the same has been supplied to the counsel opposite.

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3. Learned counsel for the petitioners at the outset submits that a false and fabricated case having been planted upon the petitioners is apparent from the fact that while stepping into the witness box, both the material witnesses i.e. complainant Prem Kumar as well as Amarjeet Singh, had not supported the case of the prosecution as a result of which they both were declared hostile. Learned counsel submits that in the facts and circumstances, since both the material witnesses stand examined and have not supported the case of the prosecution, further incarceration of the petitioners would serve no useful purpose as 11 prosecution witnesses still remain to be examined.

4. Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, has drawn the attention of this Court to the FIR in question which has been annexed as Annexure P-1. It has been submitted that the petitioners have been attributed blows with a kappa on the head of injured Amarjeet Singh and which in turn finds corroboration with his medico legal report. Learned State counsel has submitted that in view of the serious allegations and specific role attributed to the petitioners in the occurrence in question, they do not deserve to be enlarged on bail. Learned State counsel, on instructions from ASI Kewal Krishan, has, however, not disputed that the complainant as well as the injured witness had turned turtle during the course of trial by not supporting the case of the prosecution.

5. Learned counsel appearing for the complainant/injured has not disputed the submissions made by learned counsel for the petitioners qua both the material witnesses including injured witness

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Amarjeet Singh, having been declared hostile during trial.

6. I have heard learned counsel for the parties and perused the material placed on record.

7. In the facts and circumstances as enumerated hereinabove, since 11 prosecution witnesses still remain to be examined, further incarceration of the petitioners, who have now been in custody since 25.09.2023, would serve no useful purpose. This Court, therefore, deems it fit to extend the concession of bail to the petitioners.

8. Accordingly, both the petitions are allowed. The petitioners be admitted to bail on their furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned. 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.

08.04.2024
Vinay

(MANJARI NEHRU KAUL)
JUDGE

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