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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 27.02.2025

1. CRM-M-24239-2024 (O&M)

Sachin @ Jagga

...Petitioner

Versus

State of Haryana

...Respondent

2. CRM-M-31754-2024 (O&M)

Lokesh @ Gogi

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Tanvir S. Grewal, Advocate,
for the petitioner in CRM-M-24239-2024.

Mr.Akashdeep Singh, Advocate,
for the petitioner in CRM-M-31754-2024.

Mr. Ravish Kaushik, Addl. A.G., Haryana.

MANJARI NEHRU KAUL, J.

By this common order this Court is proposed to dispose of the
above referred petitioners.

2. The petitioners are seeking concession of regular bail under
Section 439 Cr.P.C. in case FIR No.295 dated 25.05.2021 under Sections
302, 34, 120-B IPC and 25 of Arms Act, 1959, registered at Police Station
Shivaji Colony, Rohtak.

3. Learned counsel for the petitioners submit that petitioner
Lokesh has been in custody since 02.08.2022, while petitioner Sachin has



been in custody since 09.12.2021. Learned counsel submit that the petitioners being falsely implicated in present case, is evident from the fact that both the alleged eye witnesses i.e. PW-Sachin @ Kuki and PW-Nitesh while stepping into the witness box had not supported the case of the prosecution, as a result of which they both were declared hostile. On a pointed query put to the learned counsel for the petitioners as to whether the complainant had been examined, the learned counsel for the petitioners submit that the complainant (brother of the deceased) has since been examined, however, the complainant, even as per the case of the prosecution, was not an eye witness to the occurrence in question; he was not present and had been telephonically informed about the attack on the person of the deceased by PWs Sachin and Nitesh, who, as already submitted, had been declared hostile during trial. Learned counsel for the petitioners, therefore, submit that in the given circumstances, since all the material witnesses stand examined and the two most material witnesses i.e. PW Sachin @ Kuki and Nitesh (alleged eye witnesses) had been declared hostile, further incarceration of the petitioners would serve no useful purpose as 39 prosecution witnesses still remain to be examined.

4. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has reiterated the allegations levelled in the FIR in question, which is annexed as Annexure P-1 in CRM-M-24239-2024, and stand reproduced hereunder :

“ To, S.H.O., Police Station Shivaji Colony, Rohtak. Sir, It is submitted that I, Akash s/o Sh. Azad Singh, am a resident of L-96/97, Vijay Vihar Rohini. We are two brothers. Ankush is



studying in LLB from Ghaziabad. Ankush was living with my grandmother in Doctor WaliGali Vijay Nagar Rohtak for last about one and half months. Today i.e on 24.05.2021, my brother Ankush was with my grand mother in house. At that time, my brother Ankush's friends Nitish and Kukki came to meet my brother and all three went to Aggarsen Stadium Vaish College Janta Colony Rohtak for exercise. At about 5 or 6.30 P.M, when my brother was exercising, Nitish and Kukki were sitting near my brother. Then two young boys came there armed with weapons and started indiscriminate firing at my brother, due to which my brother Ankush died at the spot. I fully suspect that my brother Ankush has been got murdered by Lokesh @ Gogi, Robin Ahlawat, Deepak Chillar, Chintu Khawadia, TejasBohar under a conspiracy because all of them had also murdered my friend Kapil Kadyan a long time ago. I also suspect that my brother Ankush has been murdered/got murdered by friend's brother Golu Mayna and his accomplice because Golu Mayna had threatened Ankush to remain away from his sister. You are requested to take stringent legal action against murderers/conspirators of my brother and justice be imparted to me. Sd/-Aakash s/o Sh. Azad Singh R/o L.96/97 Vijay Vihar Rohini, Delhi. Phone no. 8307777145.”

5. Learned State counsel has submitted, on instructions, that no doubt both the witnesses had been declared hostile during trial and the complainant was not a witness to the occurrence in question, however, the weapon of offence had been recovered at the instance of both the accused persons. It has also been submitted that the complainant while testifying during trial, has spelt out the motive to commit the crime in question, which was an alleged relationship of deceased with the sister of one Golu.



submissions made by counsel for the State and have asserted that even the recovery of weapon of offence is highly suspect since the empty bullets recovered from the body of the deceased, had not matched with the recovered weapon of offence.

7. I have heard learned counsel for the parties and perused the relevant material on record.

8. Petitioner Lokesh has been in custody since 02.08.2022, while petitioner Sachin has been in custody since 09.12.2021; all the material witnesses, including the complainant, stand examined. It is a case resting on eye witness account, and as not disputed by the learned State counsel, both the eye witnesses were declared hostile during trial. In the circumstances, no useful purpose would be served in keeping the petitioners in custody as there can now be no apprehension of either of them intimidating / influencing the witnesses. In the facts and circumstances as enumerated here-in-above, the instant petition is allowed. The petitioners be admitted to bail to the satisfaction of the trial Court/ Duty Magistrate concerned. However, it is made clear that anything observed here-in-above shall not be construed to be an expression of opinion on the merits of the case.

9. A photocopy of this order be placed on the file of the connected case.

27.02.2025

Satyawan

**(MANJARI NEHRU KAUL)
JUDGE**

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No