



211/2 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision:12.03.2025

(i) CRM-M-53971-2023

Dharampal ...Petitioner

VS.

State of Haryana ...Respondent

(ii) CRM-M-58656-2024

Shekhar ...Petitioner

VS.

State of Haryana ...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Devender Kumar, Advocate
for the petitioner in CRM-M-53971-2023.

Mr. Yashveer Kharb, Advocate for
Mr. Vishal Yadav, Advocate
for the petitioner in CRM-M-58656-2024.

Mr. Rajiv Sidhu, DAG, Haryana.

N.S.Shekhawat J.(oral)

1. This order shall dispose off above-said two petitions i.e. CRM-M-53971-2023, titled as Dharampal Vs. State of Haryana and CRM-M-58656-2024 titled as Shekhar Vs. State of Haryana, whereby the petitioners have prayed for grant of regular bail to them in case FIR No.26 dated 09.03.2023 registered under Sections 302, 148, 149 of IPC and Sections 25-54-59 of Arms Act (Sections 120-B, 34 of IPC added later on and Sections 148, 149 of IPC has been deleted), at Police Station Bahin, District Palwal.



2. The FIR in the present case was registered on the basis of the statement made by Sher Singh son of Med Singh, and the same has been reproduced below:-

“To, Sir, SHO Sahab Police Station Bahin. It is submitted that I, Sher Singh son of Med Singh, am permanent resident of Village Gehlab. Today on dated 08.03.2023 time about 8:00 P.M. I received an information that my son Mahesh has been shot at Bus Stand Gehlab. I reached at Bus Stand Gehlab after ran away, where Mahesh was found lying unconscious on the road. Mukesh son of Devender was present near Mahesh. Mukesh told me that I and Mahesh came to Bus Stand Gehlab on a motorcycle. I was driving the motorcycle and Mahesh was the pillion rider. That on the Bus Stand Dharampal son of Hoshiyar, Shekhar son of Bhramjit, residents of Village Gehlab and Mukesh alias Sukha son of Jaipal, resident of Village Burja, Police Station Gadpuri, Daani alias Langda resident of Kaamar, U.P., two-three others Bhola son of Vijender Nambardar, Suraj Pahalwan son of Dharamvir (Popal), residents of Village Gehlab were already sitting after ambush and all encircled Mahesh and Mukesh alias Sukha straightway fired upon him. Dharampal was also having country made pistol. The remaining accused were having rod, lathi in their hands. After taking my son Mahesh I reached at Government Hospital, Palwal, where Doctor Sahab declared Mahesh dead. Legal action be taken against aforesaid all the accused. Dated 08.03.2023. Sd/- Sher Singh applicant. Sher Singh son of Med Singh, resident of Village Gehlab, Police Station Bahin. Mobile No.8813884945.”

3. Learned counsel for the petitioners have vehemently argued that in the present case, the petitioners have been wrongly named by the complainant



and the petitioners had no concern with the alleged crime. In fact, even as per the case set up by the prosecution, Mukesh @ Sukha, co-accused had fired shot on Mahesh son of Sher Singh and as per the post-mortem report (Annexure P-2), Mahesh (since deceased) had suffered only one gun-shot injury and did not suffer any other injury in the present case. Even, it has been wrongly shown that Dharampal was carrying a fire arm, but the said fire arm was never used by him in the alleged crime. Learned counsel further contends that the challan in the present case has already been presented and all the private witnesses have already been examined by the trial Court, in compliance of the order dated 28.01.2025 passed by this Court. Further, only official witnesses are yet to be examined and both the petitioners, who are being rustic villagers, are not in a position to influence the witnesses of the prosecution. The petitioner-Shekhar was arrested in the present case on 26.07.2023, whereas, Dharampal-petitioner in CRM-M-53971-2023 is in custody since 12.03.2023. Since the material witnesses have already been examined by the prosecution, their further custody will not serve any meaningful purpose.

4. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioners on the ground that both the petitioners have been specifically named in the FIR and as per the allegations, Dharampal was also carrying a fire arm, even though, the fire arm was not used by him. Further, the petitioner-Shekhar is facing prosecution in two more cases, whereas, Dharampal was also accused in four other cases and both the witnesses may threaten the remaining witnesses of the prosecution, who are yet to be examined.



5. I have heard learned counsel for the parties and perused the record carefully.
6. In the present case, Dharampal, petitioner is stated to be in custody for over 2 years, whereas, Shekhar, petitioner is in custody for the last about 01 year and 08 months. The material witnesses of the prosecution have already been examined before the trial Court. Moreover, the only role attributed to them are that they were simply present at the place of occurrence and no role has been attributed to them. Even, the fire arm injury is attributed to Mukesh, co-accused, who are still in custody.
7. Without commenting on the merits of the case, the present petitions are allowed and the petitioners are ordered to be released on bail subject to their furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned.

12.03.2025
hemlata

(N.S.SHEKHAWAT)
JUDGE

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