

CRM-M-2917-2023 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-2917-2023 (O&M)

Date of decision: August 16, 2023

Dilbagh Singh

....Petitioner

versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Randeep S. Dhull, Advocate for petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

ARUN MONGA, J. (ORAL)**CRM-33925-2023**

For the reasons stated in application, same is allowed. Annexures P-3 and P-4 are taken on record, subject to all just exceptions.

Main case (O&M)

After being declined bail by the trial Court, petitioner, before this Court seeks his release as undertrial in a case bearing FIR No.325 dated 11.12.2019, registered under Sections 307, 435, 120-B, 201, 148 read with Section 149 of the Indian Penal Code, 1860 (for short 'IPC') and Section 25 of the Arms Act, 1959 (for short 'Arms Act'), at Police Station Cheeka, District Kaithal.

2. Per First Information Report (FIR), on 01.12.2019 at about 11:00 p.m., complainant-Gurjant, Meshi son of Ajmer and Jasbir son of Karam Singh were sitting in agricultural fields. Heated altercation took place between him and Rajesh Kumar, over telephone. After sometime, Rajesh Kumar, Gulgul @ Kuldeep, Manjeet, Raman, Vijay @ Bhoot, Ashok, Amit, Vishal and 3-4 other boys arrived there on two vehicles. They were carrying weapons like country-made pistols, *gandasis*, *dandas*, *bindas* etc. Upon *lalkara* raised by co-accused Gulgal @ Kuldeep, when complainant tried to escape on his motorcycle, accused Kuldeep @ Gulgal fired a shot from his pistol to kill him. However, he bent down and had a narrow escape. An FIR was registered. During investigation, petitioner was arrested on 11.01.2021.

3. Learned counsel for petitioner submits that petitioner has been falsely implicated on the basis of disclosure statement of co-accused, who is the prime suspect. He

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further submits that petitioner was not named in the FIR. There is nothing mentioned in the complaint that petitioner was present at the time of alleged incident along with any form of alleged weapon so as to cause harm to the complainant and his friends. Neither petitioner participated in the alleged crime nor is there any evidence to show his complicity in the alleged offence.

3.1. Learned counsel further urges that nothing is to be recovered from the petitioner and no useful purpose would be served by keeping him behind bars.

3.2. Learned counsel further contends that main accused, namely, Rajesh and Raman @ Ramni who were named in the FIR, have though been granted bail vide order dated 21.03.2022 passed in CRM-M-5064-2022 by a co-ordinate Bench and vide order dated 14.07.2023 passed in CRM-M-32431-2023 by this Court, respectively, but petitioner continues to languish in the jail, notwithstanding that his role is on much lesser footing *vis-à-vis* them.

4. On the other hand, learned State counsel, on instructions from ASI Sunder Singh, opposes the petition and submits that petitioner has committed a serious offence. He further canvasses that previous conduct of petitioner does not inspire confidence as he is involved in seven other cases, out of them, he is on bail in only one case. He also submits that petitioner has also been convicted in another case under Arms Act. If enlarged on bail, there is every likelihood that he will commit similar offence and/or will flee from trial, and he might tamper with evidence or influence/ intimidate the witnesses.

4.1. In rebuttal, learned counsel for petitioner submits that petitioner has already completed his sentence in the Arms Act case and has undergone the entire sentence as on 01.08.2022.

5. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

6. On a Court query, learned State counsel submits that challan has already been presented, but charges are yet to be framed. Investigation *qua* petitioner is complete, he is thus not required for custodial interrogation. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Allegations against petitioner are a matter of trial at this stage. There are total 26 witnesses and conclusion of trial is still likely to take long

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time as it is proceeding at a snail pace. Whereas, petitioner has already been languishing in jail for the past more than 2 years and 6 months in preventive custody, being behind bars since 11.01.2021.

7. Petitioner is being kept in preventive custody merely on an unfounded suspicion that if he is let out, he may either tamper with evidence and/or influence witnesses. There is no probability of tampering with evidence as the same has already been seized by the investigating agency.

8. It is stated that petitioner is a family man having fixed abode. It is unlikely that he poses any flight risk and/or will flee from trial proceedings.

9. Co-accused of petitioner have already been granted the concession of bail. Role attributed to petitioner appears to be at par with that of his co-accused. In the premise, I see no ground as to why petitioner should not be meted out with similar treatment.

10. Considering the overall scenario and without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep the petitioner in further preventive custody.

11. Accordingly, petitioner is ordered to be released on bail, in case not required in any other case, on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where his case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.

12. Any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for limited purpose of bail hearing alone and learned trial Court shall proceed without being influenced with this order.

13. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

August 16, 2023

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No