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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-5841-2022 (O&M)

Date of decision:19.09.2023

Saddam

....Petitioner

Versus

State of Haryana

....Respondent

**CORAM: HON'BLE MR. JUSTICE ARUN MONGA**

**Present:** Mr. Munfaid Khan, Advocate,  
For the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

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**ARUN MONGA, J. (ORAL)**

Status report dated 18.09.2023 by way of affidavit of Jitender Kumar, HPS, Deputy Superintendent of Police, Nuh, has been tendered in course of hearing, which is taken on record.

2. This is second foray of the petitioner before this Court seeks his release as an undertrial in a case bearing FIR No.192 dated 14.08.2020, registered under Sections 307, 332, 333, 353, 186, 225, 148 read with Section 149 of IPC and Section 3 (2) of Prevention of Damage to Public Property Act 1984 and Section 25, 27(2) of Arms Act, 1959 at Police Station, Pinangwa, District Nuh as earlier bail petition was dismissed as withdrawn vide order dated 16.11.2021 by a coordinate Bench of this Court.

3. The case of the prosecution is that on 14.08.2020, information was received in police station Pinangwan that ASI Rakesh Kumar CIA Tauru, is admitted in GH Mandikhera having suffered a fire-arm injury. Police party then went to the hospital, when the complainant stated that he along with other police officials had gone to village Rithat to arrest accused Ahmed, who is wanted in a case at Uttar Pradesh. There was firing between the police party and the accused. The accused also received gun shot injury on his right leg. He was apprehended. Two country-made pistols and live rounds were seized from him. Subsequently, around 60 villagers attacked the police party with stones, bricks and gun shots. That is how fire arm injury was suffered by the complainant.

Petitioner-Saddam was apprehended on the spot along with one country made pistol and

one live cartridge. Five empty cartridges were recovered from the Spot. Subsequently co-accused Hakamddin and Shahrukh were arrested. Petitioner is in custody since 14.08.2020.

4. Learned counsel for the petitioner submits that petitioner has been implicated in the present case along with 50-60 other accused including several women. No injury has been caused by the petitioner to any person. He submits that investigating officer is himself the complainant in the present case.

4.1 Petitioner is in custody since 14.08.2020. No recovery is to be effected from the petitioner. No specific role is attributed to the petitioner. He further submits petitioner is not required for further custodial interrogation. There is no likelihood of petitioner tampering with evidence and/ or influencing prosecution witnesses. Petitioner is totally innocent and has thus been falsely implicated in the case.

4.2 Learned counsel for the petitioner further submits that co-accused of the petitioner, namely, Shahrukh and Hakmuddin have already been granted concession of regular bail by learned trial Court vide orders dated 29.09.2020 and 17.11.2020 (Annexures P-2 and P-3). He further states that petitioner's case is on much better footing who has not been attributed any specific role and yet, he continues to be in jail.

5. On the other hand, learned State counsel opposes the bail petition. He submits that petitioner has committed a serious offence. In case, petitioner is granted concession of bail, there are chances of his fleeing from justice. He submits that petitioner cannot claim parity with co-accused Hakmuddin and Shahrukh. Both the said co-accused were attributed role of pelting of stones. Whereas petitioner fired gun shots on police officials and one country made pistol and one live cartridge was recovered from him. Petitioner is a habitual offender.

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

7. On a Court query, under instructions learned State counsel submits that as per status report which has been tendered in course of hearing, 19 cases are pending against the petitioner. He however, is on bail in all 19 cases. He informs that challan has

been presented and investigation *qua* the petitioner is complete. Petitioner is not required for custodial interrogation.

8. Allegations against petitioner are a matter of trial at this stage. Conclusion of the trial is likely to take quite sometime as it is proceeding at a snail pace. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Whereas, petitioner has already been languishing in jail for more than 03 years, being behind bars since 14.08.2020. He 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.

9. Petitioner is stated to be 22-year old married person having wife and minor child. He has added responsibility to look after his widowed mother. They all are living in sheer penury in his absence. He is the sole breadwinner of his family. He has already lost his livelihood due to prolonged incarceration. Having family to look after and fixed abode, it is unlikely that he poses any flight risk and/or will flee from trial proceedings.

10. Co-accused have already been accorded the concession of bail by learned trial Court.

11. 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.

12. 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 Ld. 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.

13. In case, petitioner is found to be involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of his bail in the instant case.

14. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for the limited purpose of

hearing the instant bail petition alone and learned trial Court shall proceed without being influenced with this order.

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

( ARUN MONGA )  
JUDGE

19.09.2023  
vandana

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