

CRM-M-9565-2023 (O&M)

221

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-9565-2023 (O&M)

Date of decision: July 17, 2023

Arjun @ Ghoda

....Petitioner

versus

State of Haryana

....Respondent

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

Mr. Vikas Bhardwaj, AAG Haryana.

ARUN MONGA, J. (ORAL)

Petitioner seeks bail in case bearing FIR No.42 dated 16.07.2020, registered under Sections 147, 148d, 149, 307 of the Indian Penal Code, 1860 (for short 'IPC') and Sections 25/ 54/ 59 of Arms Act, 1959 (for short 'Arms Act') (Sections 302, 326 of IPC added later on), at Police Station GRP Hisar, District Hisar.

2. Per prosecution version, on 16.07.2020, at about 12:30 A.M., when Neeraj (complainant) and Dharmender were returning to their residence after attending a party and were crossing railway line, they saw the accused i.e. Kamal, Gaurav, Raman, Arjun @ Ghoda (petitioner), Jambo @ Deepak and two/three other persons armed with sharp edged weapons i.e., *Talwar*, *Gandassa* and knife. They were assaulting/inflicting bodily injuries on Shamsher and Pawan. When complainant and Dharmender tried intervene to rescue the victims, assailants attacked them too. All the accused persons later ran away from the spot along with their weapons. An FIR was registered. Petitioner was arrested as one of the suspects and is behind bars since 16.07.2020.

3. Learned counsel for petitioner submits that petitioner has been falsely implicated in this case. Petitioner has neither been attributed any specific role nor even any recovery was affected from him except an alleged brick used by him. He states that, when the incident took place, petitioner was a young boy of 19-year old. He is/was named in this case merely on the basis of unfounded and uncorroborated custodial

CRM-M-9565-2023 (O&M)

statement of another co-accused. Custodial statement was under force and coercion and *per se* not admissible in the absence of any supporting material *qua* the same. He contends that due to continued incarceration of the petitioner, his entire life has been put to jeopardy and would be unable to get any employment in future in case he continues to be in jail. He points out that co-accused, namely Vivek @ Kala, Sunny, Rajbir and Raman @ Pipra have been accorded concession of bail by co-ordinate Bench of this Court, vide orders dated 09.03.2022, 12.11.2021, 13.09.2021 and 22.11.2022 contained at Annexures P-2 to P-5, respectively. He submits that on the ground of parity, petitioner is entitled to be released on bail. He also states that petitioner is not involved in any other case.

4. On the other hand, learned State counsel, on instructions from SI Harpal Singh opposes the bail petition. He submits that petitioner has committed a serious offence. Petitioner, if enlarged on bail, may tamper with the evidence and/ or influence the witnesses. Investigation is complete and supplementary challan has been presented and even charges were framed on 18.10.2020. He submits that out of 25 witnesses, none have been examined. He also submits that there is no other case against the petitioner.

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

6. It transpires that investigation is complete. Petitioner is not required for custodial interrogation and he is being kept in judicial custody only on unfounded suspicion of tampering with the evidence and/ or influencing the witnesses. Trial is proceeding further at a snail pace. There are total 25 witnesses and out of them, none has been examined. Other co-accused of the petitioner have indeed been granted bail by co-ordinate Bench of this Court vide orders dated 09.03.2022, 12.11.2021, 13.09.2021 and 22.11.2022 contained at Annexures P-2 to P-5, respectively. Petitioner is stated to be not involved in any other case.

7. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Whereas, petitioner has already been languishing in jail for the past 3 years in preventive custody now, being behind bars since 16.07.2020. Petitioner is stated to be

CRM-M-9565-2023 (O&M)

22-year old young boy, and his long incarceration in jail will render him jobless. He has to look after his parents.

8. 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.

9. Accordingly, petitioner is ordered to be released on bail, if 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.

10. 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.

11. 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.

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

(ARUN MONGA)
JUDGE

July 17, 2023

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No