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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: July 13, 2023

Sonu

....Petitioner

versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Hitesh Verma, Advocate for petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

ARUN MONGA, J. (ORAL)

Petitioner, stated to be 24-year old young boy, seeks bail in criminal case bearing FIR No.398 dated 15.11.2019, registered under Sections 307/34, 120-B, 216 of the Indian Penal Code, 1860 (for short 'IPC') and Section 25 of Arms Act, 1959 (for short 'Arms Act') (Sections 120-B, 216 IPC added later on), at Police Station Kharkhoda, Sonipat.

2. Per First Information Report (FIR), on 15.11.2019, at about 8:00 a.m., when complainant was in his shop along with his son who went out for a minor errand, two persons suddenly surrounded him. They then fired gun shots at him. He identified one of them to be Sonu (petitioner) while second boy was unknown. Thereafter, accused decamped on a motorcycle and while running away, pillion rider fired another shot at the complainant and the bullet hit in his right leg. They loudly proclaimed while fleeing that they have taught them a lesson for favoring family of Sandeep, who had been murdered a few days ago. Petitioner was later arrested on 05.03.2020.

3. Learned counsel for petitioner submits that petitioner has been falsely implicated in this case. He submits that injured complainant, injured son and eyewitness have not supported prosecution version, as is borne out from their testimony which is contained at Annexure P-2. Petitioner is in custody for the last more than three years and

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four months, whereas trial is likely to result in his acquittal as per the testimony aforesaid, he contends.

4. On the other hand, learned State counsel, on instructions from ASI Sunilopposes the bail petition. Hesubmits that petitioner has committed a serious offence. Two pistols .315 bore and .32 bore were recovered from the petitioner. He submits that there are total 19 witnesses and out of them, 14 have been examined and two have given up. There are 7 more cases against the petitioner.

4.1. In rebuttal, learned counsel for petitioner points out that petitioner is either on bail or has been acquitted or sentence undergone in all other criminal cases against him.

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

6. In the present case, since trial has commenced, petitioner is not required for any further custodial interrogation. Material witnesses are stated to have turned hostile as they have not supported prosecution case. On a Court query, learned State counsel does not controvert the same.

7. Conclusion of trial is still likely to take long time. Whereas, petitioner has already been languishing in jail for the past more than 3 years and 4 months in preventive custody, he being behind bars since 05.03.2020. It is stated that petitioner is a 24-year old young boy and has also lost his earlier livelihood. If not released on bail, he will suffer further adversarial impact on his carrier prospectss and may be rendered jobless forever.

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 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.

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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 13, 2023

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No