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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-21524-2023 (O&M)

Date of decision:09.08.2023

Manish@ Gola

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Ranvijay Singh, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

ARUN MONGA, J. (ORAL)

After being declined bail by the trial Court, petitioner before this Court seeks his release as undertrial in case bearing FIR No.75 dated 05.07.2022, registered under Sections 148, 307, 323 read with Section 149 of Indian Penal Code (Challan filed under Sections 307, 323, 326, 326-A, 201, 120-B, 148 read with Section 149 of IPC) at Police Station, City Kanina, Mahendergarh, District Mahendergarh.

2. Per prosecution version, complainant Ankit stated that on 01.07.2022 he and his friend Deepak @ Sonu had consumed liquor and while they were sitting outside on the ground, four boys descended on the scene on two motor cycles. They were wielding two bottles of petrol. One of them poured petrol on injured-Ankit and then one of them set him ablaze. Thereafter, the assailants decamped. One boy out of four was identified as Manish alias Gola, i.e., the present petitioner, while remaining assailants could be identified by Deepak. During investigation, petitioner was arrested on 05.07.2022 and has been in custody ever since.

3. Learned counsel for petitioner submits that though petitioner was named in the FIR unlike the co-accused, who were not named but there is no role either covert or overt attributed to the petitioner for committing any offence requiring his implication. Further argues that out of 11 accused, 4 have been granted bail by learned trial court vide orders dated 29.03.2023, 31.03.2023, 10.04.2023 (Annexure P-2) while other 4 co-

accused of the petitioner, have already been accorded concession of regular bail by this

court vide order dated 22.03.2023 (Annexure P-3). Petitioner's case is at par with his co-accused who are on bail and yet he continues to be in jail, he contends. He also argues that on the ground of parity alone, petitioner is entitled to be released on bail during pendency of trial.

3.1 He further submits that nothing is to be recovered from the petitioner and he is not required for further custodial interrogation. He submits that there is an inordinate and unexplained delay in registration the FIR as the occurrence described by the complainant was of 01.07.2022, whereas the FIR was registered on 05.07.2022.

4. 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 further submits that there is one criminal complaint pending against him in which he is not on bail.

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

6. On a Court query, under instructions from ASI Satish Kumar, learned State counsel submits that challan was presented on 29.09.2022 and charges were framed on 01.12.2022. Investigation is thus complete *qua* petitioner, he is not required for custodial interrogation. There are 18 prosecution witnesses out of them, only one has been examined till date. Commencement/conclusion of the trial is likely to take quite sometime. Allegations against petitioner are a matter of trial at this stage.

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 01 year 01 month and 01 day in preventive custody, he being behind bars since 08.07.2022. 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. There is no probability of tampering with evidence as the same has already been seized by the investigating agency.

8. Petitioner is stated to be 24-year unmarried agriculturist by profession and only breadwinner of his family, has added responsibility to look after his old aged

widowed mother, who is living in sheer penury in his absence. It is unlikely that he is flight risk or will flee from the trial proceedings.

9. Co-accused have been granted concession of bail by this Court vide order dated 22.03.2023. Role attributed to the 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 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.

12. 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.

13. 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.

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

(ARUN MONGA)
JUDGE

09.08.2023
vandana

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