

214

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-25762-2021 (O&M)

Date of decision:28.08.2023

Ravi

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. G.S.Sandhu, Advocate
for the petitioner.

Mr.Vikas Bhardwaj, AAG, Haryana.

Mr. Aayush Gupta, Advocate,
For the complainant.

ARUN MONGA, J. (ORAL)

After being declined bail by the trial Court, petitioner before this Court seeks his release as an undertrial in a case bearing FIR No.800 dated 10.08.2018, registered under Sections 302 read with Section 34 of IPC and Section 25 of Arms Act at Police Station, Chandni Bagh, Panipat, District Panipat.

2. Prosecution case is that complainant Ankur Gupta, having family business of dye of fabrics/textiles, when on 10.08.2018 was giving monthly salaries to workers along with his father Parmod Gupta and brother Yaman Gupta, two young boys in muffled faces reached their factory premises. They demanded money from his father. When his father questioned them, they fired gunshots at his father with the pistols they were carrying. His father fell down on the ground. On hearing the gunshots, several workers of the factory reached there and apprehended the said boys along with their weapons. In the scuffle, some workers also received injuries. He took his father to Government Hospital, Panipat where he was declared brought dead. FIR was lodged. Petitioner is in custody since 10.08.2018.

3. Learned counsel for petitioner submits that there is no motive attributed to petitioner to commit the alleged offence. The alleged gunshot is attributed to co-accused Neeraj. No specific role is attributed to the petitioner. He further submits that nothing is

to be recovered from the petitioner and he 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. There is no other case pending against him. He further submits that petitioner is having serious medical issue with regard to working of his kidneys and if not treated urgently, he may not survive.

4. On the other hand, learned State counsel opposes the bail petition. He submits that petitioner has committed a serious offence. Accused were apprehended at the spot along with the weapons they were carrying with which they had committed the murder of the father of the complainant. There is direct evidence against them and there are several eyewitnesses to prove the same. In case, petitioner is granted concession of bail, there are chances of his fleeing from justice. He, however, admits that no other case is pending against him.

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 SI Shri Krishan, learned State counsel submits that after challan was presented and charges were framed, trial is going on. Investigation is thus complete. Petitioner is not required for custodial interrogation. Out of 21 prosecution witnesses, 14 have been examined. 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.

7. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Whereas, petitioner has already been languishing in jail more than 05 years, being behind bars since 10.08.2018. 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.

8. Vide order dated 25.05.2023 passed by a coordinate Bench of this Court, petitioner was granted interim bail. Order being relevant is reproduced hereinbelow:

“The counsel appearing on behalf of the petitioner inter alia contends that the only allegations against the petitioner are that he exhorted co-accused Neeraj, on which, said Neeraj fired fatal shot, which resulted in death of Parmod Gupta, father of complainant. The counsel for

the petitioner further submits that the petitioner is in custody for the last 4 years and 9 months and is having no criminal history and further, it will take considerable time for the trial to conclude as till date only 13 PWs out of cited 21 PWs have been examined. It is further submitted that all the material witnesses are examined and if released on bail, there is no fear that petitioner is going to influence or pressurize them. So prayer is made for grant of regular bail.

The prayer is resisted by counsel for the complainant, who that the trial is going on and already 13 PWs are examined including all the material witnesses and he further submits that the next date fixed before the trial Court is 24.8.2023 for recording statements of remaining PWs and further the petitioner has actively participated in the occurrence and was armed with pistol and he exhorted the co-accused Neeraj and only thereafter Neeraj shot dead the deceased.

The State counsel on instructions from SI Krishan has not disputed the custody period of the petitioner and further apprised the Court that indeed the material witnesses are examined but still 8 another prosecution witnesses remain to be examined and for that purpose the date fixed in the trial Court is 24.8.2023.

The counsel for the petitioner also apprised the Court that the petitioner is having medical issue with regard to working of his kidneys and for proper treatment the petitioner was taken to PGI also by the jail authorities.

Taking into consideration the fact that the petitioner is already in custody for the last 4 years and 9 months and is having no criminal history and further it will take considerable time for the trial to conclude, the petitioner is hereby directed to be released on interim bail till the next date of hearing subject to satisfaction of trial Court/CJM concerned on his furnishing requisite bail and surety bonds.

Now be listed on 28.8.2023.”

9. On a Court query, learned counsel for the petitioner submits that petitioner is a poor person and could not provide the bail bonds for his interim bail and, therefore, still continues to be in custody despite the concession granted by this Court. He submits that if regular bail is granted, he will make arrangements for bail bonds.

10. Given his medical condition, petitioner doesn't appear to be a threat to society and also unlikely to flee. He has clean antecedents and has a fixed abode.

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 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

28.08.2023
vandana

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