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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-25300-2023 (O&M)

Date of decision: July 19, 2023

Abhishek Sehgal

....Petitioner

versus

State of Punjab

....Respondent

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

Mr. Mohit Thakur, AAG Punjab.

ARUN MONGA, J. (ORAL)

Petitioner seeks bail in case bearing FIR No.368 dated 27.08.2022, registered under Sections 406, 420, 120-B of the Indian Penal Code, 1860 (for short 'IPC'), at Police Station Sohana, District SAS Nagar, Mohali, Punjab.

2. Per prosecution version, petitioner along with co-accused demanded Rs.30 lakh for getting some civil suit decided in favour of complainant-Joginder Singh within two weeks. An amount of Rs.25 lakh was paid. Further amount of Rs.2 lakh was paid to Sameer Walia at his house and Rs.3 lakh were paid to Abhishek Sehgal at his house. They also demanded Rs.8 lakh for getting another case pending at Kapurthala decided in their favour. When money was demanded back, accused started threatening the complainant. An FIR was registered. Petitioner was arrested on 27.09.2022 and is in custody since then.

3. Learned counsel for petitioner submits that petitioner has been falsely implicated in this case. He submits that charges in this case were framed on 31.01.2023, but despite lapse of around 4 months, prosecution has failed to even secure presence of even a single witness. He further contends that per Section 437(6) of Cr.P.C., in a case triable by Magistrate, in the event trial of an accused is not concluded within a period of 60 days from the first date fixed for evidence, then an accused is entitled to be released on bail. He refers to zimni orders, Annexure P-2 (colly), to point the aforesaid lacuna and

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urges that petitioner is entitled to be released on bail under the provisions of Section 437(6) Cr.P.C. In support of his contention, learned counsel relies on decisions of this Court rendered in Vinayak Maheshwari Chitlangi versus UT Chandigarh¹, Dharaminder Sharma versus State of Punjab² and Raman Kumar versus State of Punjab³.

4. On the other hand, learned State counsel, on instructions from ASI Om Prakash opposes the bail petition. He submits that petitioner has committed serious offence. There are 2 more cases against the petitioner. There are total 8 witnesses in the present case, out of them none have been examined so far. If enlarged on bail, petitioner may tamper with the evidence and/ or influence the witnesses. Challan was filed and charges were framed on 31.01.2023.

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

6. It transpires that investigation *qua* petitioner is already complete and petitioner is not required for custodial interrogation and he is being kept in judicial custody on the unfounded apprehension of tampering with the evidence and/ or influencing the witnesses. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Trial is unlikely to conclude in near future since out of 8 witnesses, none has been examined so far. Whereas, petitioner has already been in jail for the past more than 10 months in preventive custody, being in custody since 27.09.2022.

7. That apart, concededly, the case in hand is triable by Magistrate. Charges were framed on 31.01.2023 and since then, no prosecution witness has been examined. I am of the view that since trial has not concluded within 60 days from the date fixed for taking evidence.

8. Petitioner is stated to be sole bread winner with the added responsibility of his old aged parents who are living in penury, in his absence. His father is suffering from paralysis. Being a person with family responsibilities, he poses no flight risk. The offence

¹ CRM-M-10653-2020, decided on 17.09.2020

² CRM-M-20684-2020, decided on 03.11.2020

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allegedly committed by petitioner is of non-violent nature and in that sense his release on bail is not a threat to society at large by committing any violent crime.

9. 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.

10. 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 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.

11. 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.

12. Any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for limited purpose of bail hearing alone and learned trial Court shall proceed without being influenced with this order.

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

(ARUN MONGA)
JUDGE

July 19, 2023

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No