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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: July 06, 2023

Akash @ Lovepreet Sandhu

....Petitioner

versus

State of Punjab

....Respondent

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

Mr. Dhruv Dayal, Additional AG Punjab.

ARUN MONGA, J. (ORAL)

Petitioner, stated to be 24-year old young boy, seeks bail in criminal case bearing FIR No.72 dated 29.05.2021, registered under Sections 302, 336, 506, 148/149 of the Indian Penal Code, 1860 (for short 'IPC') and Sections 25, 27 of Arms Act, 1959 (for short 'Arms Act'), at Police Station, Sadar Ferozepur, District Ferozepur.

2. Per the First Information Report (FIR), on May 29, 2021, at approximately 02:00 p.m., all the accused named in the FIR gathered outside the house of the complainant, Vijay Kumar. David, also known as Laddi, and Rishu were involved in a fight with the complainant's younger brother, Sonu, who is also known as Choocha. A Panchayat (local council meeting) was convened at the house of co-accused Mohinder Pal, who is the complainant in a cross-version case. Meanwhile, all the accused assembled outside the complainant's house and searched for the complainant's nephew, Jaffar, son of Manjeet Kumar, but they did not find him and left the premises. At approximately 4:00 p.m., when the Panchayat was convened at Mohinder Pal's house, David, armed with a pistol, along with Akash (the petitioner), Abbi, Jagga, Pagga, Rinku, Samson, and Ravi

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Pardhan, began assaulting Sonu. As a result, Sonu suffered a gunshot wound and was thrown from the roof of the house. Eventually, David, Rinku, and the other accused fled from the scene. In course of investigation petitioner was arrested as a suspect on 11.05.2022 and is in custody ever since.

3. Learned counsel for petitioner submits that it is a case of version and cross-version. Petitioner has falsely been implicated in the present case. Petitioner was not present at the spot when the occurrence happened. No specific role or overt act has been attributed to the petitioner except showing his presence at the spot. Nothing incriminating has been recovered from the petitioner. Investigation *qua* petitioner is complete as challan was filed long back. He also submits that co-accused of the petitioner, namely Mohinder Paul, Balwinder @ Mithan and Bohra have also been granted concession of anticipatory/ regular bail by this Court vide orders dated 22.03.2023 and 11.04.2023, respectively. Petitioner is entitled to be released on bail on parity with the aforesaid co-accused.

4. On the other hand, learned State counsel, on instructions from HC Rattan Singh, opposes the bail petition. He submits that petitioner has committed a serious offence. There is one more case pending against the petitioner under NDPS Act, 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. In this case, co-accused of the petitioner have already been released on bail by co-ordinate Bench of this Court. Case of petitioner is at par with that of his co-accused. Investigation is stated to be complete *qua* him as challan has been presented. Nothing is stated to be recovered from the petitioner.

7. Petitioner is in custody since 11.05.2022. Trial is likely to take long time. Whereas, petitioner has already been languishing in jail for the past more

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than 1 year in preventive custody. Petitioner is stated to be sole breadwinner of his family which is living in sheer penury in his absence.

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.

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 bail 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 06, 2023

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No