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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-32716-2022 (O&M)

Date of decision: July 17, 2023

Muneesh @ Monu

....Petitioner

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Armaan Gagneja, Advocate for
Mr. Piyush Sharma, Advocate for petitioner.

Ms. Guramrit Kaur, DAG Punjab.

ARUN MONGA, J. (ORAL)

Petitioner seeks bail in criminal case bearing FIR No.62 dated 05.05.2018, registered under Sections 307, 324, 323, 379, 148, 149 of the Indian Penal Code, 1860 (for short 'IPC') (Sections 326/ 325 of IPC added later on), at Police Station Jind Gurusahai, District Ferozepur.

2. Per prosecution version, on 25.04.2018, one Gaurav, while having liquor in the hotel got into heated altercation with Sandeep Kumar, a friend of complainant-Ranjit Singh. Said Gaurav though left the place giving mere threats, but only to return after sometime armed with *kappa* along with his brother and his friend Sam armed with base ball bat and other 5-7 unknown persons. Gaurav gave *kappa* blow on complainant's head, while another one later identified as Monu also gave *kappa* blow on nose and lips. When his friend Raman Kumar intervened to rescue, Sam hit him with baseball on middle of his head. All the accused grappled with them and gave fist blows. Accused then ran away from the spot along with their weapons and one mobile phone. An FIR was registered.

3. Learned counsel for petitioner submits that petitioner has been falsely implicated in this case. Petitioner has been implicated being real brother of co-accused Gaurav with whom complainant is having some dispute. He also submits that there is a delay of 10 days in reporting the matter to police.

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3.1. Learned counsel for the petitioner contends that prime co-accused, namely Gaurav who had allegedly given head blow even he has been acquitted of the charges under Sections 307 and 379 IPC though, of course he has been convicted for offences punishable under Sections 326, 325 and 323 IPC. He further contends that assuming petitioner had given blow on the nose, even then his role since stands on lesser footing than that of prime accused, he cannot be kept behind bars only on suspicion of committing offence under Section 307 IPC.

3.2. Learned counsel for petitioner submits that he has to look after his ailing mother, wife and two minor children. He is sole bread winner of his family. His custodial interrogation is not required. Petitioner is behind bars since 26.02.2022.

4. On the other hand, learned State counsel, on instructions from SI Gurdeep Kaur opposes the bail petition. She submits that petitioner has committed a serious offence. There are two more cases against him, but he is on bail in those cases. Petitioner, if enlarged on bail, may tamper with the evidence and/ or influence the witnesses.

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

6. It transpires that investigation is complete and challan has been filed. Later, supplementary challan was presented and even charges were framed on 30.07.2022. Petitioner is not required for custodial interrogation and he is being kept in judicial custody only on the suspicion of tampering with the evidence and/ or influencing the witnesses without any basis/foundation. Trial is proceeding at a snail pace. There are total 14 witnesses and out of them, none have been examined.

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 the past more than 1 year and 4 months in preventive custody now, being behind bars since 26.02.2022. Petitioner is stated to be 33-year old, and has added responsibility of his ailing mother, wife and two minor children to look after. He is sole bread winner of his family.

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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, if 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.
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 17, 2023

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No