

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

220

CRM-M-31314-2023 (O&M)
Date of decision: 16.08.2023

Ravinder Kumar

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Sachin Ohri, Advocate for the petitioner.
Ms. Guramrit Kaur, DAG, Punjab.

ARUN MONGA, J. (Oral)

After being declined bail by learned trial Court, petitioner before this Court seekshis release as undertrial in case bearing FIR No.43 dated 14.05.2023, registered under Sections 457, 381, 328, 427, 120-B of the Indian Penal Code, 1860 (for short 'IPC'), at Police Station,Division No.1, Pathankot, District Pathankot.

2. Briefly, prosecution case is that accused Ravinder Kumar along with co-accused committed theft of cash and valuable articles from the house of Manish Pardar, after poisoningGayatri Devi mother of Manish Pardar and guard on duty-namely, Prem. FIR was registered. Petitioner was arrested as suspect on 17.05.2023 and is in custody ever since.

3. Learned counsel for the petitioner submits that petitioner has been falsely implicated by the complainant. He is not named in the FIR. He was nominated during investigation as an alleged associate of the main accused i.e. Harish Nepali servant of Munish Pardar. Petitioner has no link with the alleged occurrence. Petitioner was working as a labourer and was staying on rent in the house of Kamal Singh who is a taxi operator. Petitioner is not involved in any other case.

3.1 Learned counsel for the petitioner submits that only allegation against the petitioner is that he had hired a taxi in question to help the prime accused Harish Kumar to run away after committing the crime. He states that neither the petitioner had hired car nor in any case, he accompanied the prime accused. Culpability has been fastened on the petitioner merely on custodial interrogation of the driver of the taxi, who has been granted bail by learned trial Court vide order dated 31.05.2023 (Annexure P-3). Further

argues that petitioner's case is at par with co-accused Kamal Singh who is 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.

3.2. Learned counsel for petitioner also submits that nothing is to be recovered from the petitioner and he is not required for further custodial interrogation. However, in case as and when he is required in the investigation/trial, he shall appear before learned trial Court. There is no likelihood of petitioner tampering with evidence and/or influencing prosecution witnesses. He submits that no other case is pending against the petitioner.

4. On the other hand, learned State counsel, on instructions from ASI Kuldip Raj, opposes the bail petition. She submits that petitioner has committed a serious offence. In case, petitioner is granted concession of bail, there are chances of his fleeing from justice. She however, submits that no other case is pending against the petitioner.

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

6. On a Court query, learned State counsel submits challan is yet to be presented. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Allegations against petitioner are a matter of trial at this stage. Commencement/conclusion of trial is still likely to take long time. Whereas, petitioner has already been languishing in jail for the past more than 02 months, being behind bars since 17.05.2023.

7. Petitioner 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 44-year old family person having wife and children, who are totally dependent on him and in his absence, they are living in sheer penury. Having clean antecedents and fixed abode, it is unlikely that he poses any flight risk and/or will flee from trial proceedings.

9. Co-accused Kamal Singh has been granted concession of bail by learned trial Court vide order dated 31.05.2023 (Annexure P-3).
10. Considering the overall scenarioand without commenting on merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep petitioner in further preventive custody in instant case.
11. 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 *Illaq*a Magistrate/Duty Magistrate, as the case may be.
12. In case, petitioner is found to be involved or get 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 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

16.08.2023
vandana

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