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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-32996-2023 (O&M)

Date of decision: August 18, 2023

Gurwinder Singh

....Petitioner

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Jagdish Singh Mahal, Advocate for petitioner.

Mr. Mohit Thakur, AAG Punjab.

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.0047 dated 14.03.2023, registered under Sections 307, 379-B (2), 364, 353, 186, 506, 332, 341 of the Indian Penal Code, 1860 (for short 'IPC'), at Police Station, Beas, District Amritsar.

2. According to the FIR/prosecution's version, on 14.03.2023, Yadwinder Kumar was on government duty as conductor of a bus going from Jalandhar to Amritsar. When he asked for a ticket from one girl passenger, she got furious ensuing a heated altercation between the two. Yadwinder then blew his whistle and complainant-driver stopped the bus. The said girl alighted from the bus. However, when bus was enroute, a car came from wrong side, which was abruptly parked in front of the bus. Complainant stopped the bus. Five persons alighted from car. Meantime, three more persons and one lady, armed with *datar* and iron rods, also came there on two motorcycles. Assailants forcibly entered into the bus started assaulting the conductor. One assailant gave a blow of iron rod on the head of Yadwinder Kumar, due to which blood started oozing from the head of Yadwinder Kumar. Thereafter, another assailant forcibly snatched the bag of conductor along with ticket distributing machine. Assailants also forcibly kidnapped the conductor in their car. An FIR was registered. During investigation, petitioner was arrested on 14.03.2023 and is in custody since then.

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3. Learned counsel for petitioner submits that petitioner has been falsely implicated. Petitioner, who is brother of the girl passenger, was not even named in the FIR. Section 307 IPC was added without obtaining any expert opinion from doctor and without conducting any X-Ray examination. Learned counsel further urges that nothing is to be recovered from the petitioner and no useful purpose would be served by keeping him behind bars.

3.1. Learned counsel further submits that co-accused of the petitioner, namely, Sarabjit Kaur (sister of the petitioner) has already been granted concession of bail vide order dated 01.06.2023 passed in CRM-M-27134-2023 by a co-ordinate Bench of this Court.

4. On the other hand, learned State counsel, on instructions from SI Surender Singh, opposes the petition and submits that petitioner has committed a serious offence. Petitioner was apprehended on secret information, and the bag of conductor, containing Rs.7,400/- along with ticket machine were recovered from him. He physically threw the abducted conductor out of the car. He submits that as per MLR, total 09 injuries were suffered by the Conductor, which were though all declared simple in nature. But, if enlarged on bail, there is every likelihood that petitioner will flee from trial, and he might tamper with evidence or influence/ intimidate the witnesses. He submits that there is one more case under Section 326 IPC 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 that challan has been presented. Investigation *qua* petitioner is complete, he is thus not required for custodial interrogation. 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. Whereas, petitioner has already been languishing in jail for the past more than 5 months in preventive custody, being behind bars since 14.03.2023.

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

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witnesses. There is no probability of tampering with evidence as the same has already been seized by the investigating agency.

8. Co-accused of the petitioner, who is stated to be sister of the petitioner, has also been granted concession of bail.

9. It is stated that petitioner is 24-year old married person having wife and one minor/infant child. Being a family man and having fixed abode, it is unlikely that he poses any flight risk and/or will flee from trial proceedings.

10. 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.

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 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.

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

August 18, 2023

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No