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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-35354-2023 (O&M)

Date of decision: 27.07.2023

Mustkeem

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Namit Gautam, Advocate
for the petitioner.

Mr. Rahul Dev Singh, Additional AG, Haryana.

ARUN MONGA, J. (ORAL)

Custody certificate of the petitioner has been tendered in Court by learned State counsel, which is taken on record.

2. Petitioner seeks bail in criminal case bearing FIR No.55 dated 16.02.2023, registered under Sections 489-A, 489-B, 489-C, 489-D and 120-B of the Indian Penal Code, 1860 (for short 'IPC'), at Police Station Chhappar, District Yamuna Nagar.

3. Per prosecution version, on the basis of secret information, police party headed by P/SI Sumit apprehended the petitioner and his accomplice, namely Rakesh Prasad on 16.02.2023. Counterfeited currency notes total amounting to Rs.8,50,000/- i.e. Rs.4 lakh from the possession of Rakesh Prasad and Rs.4,50,000/- were recovered from the possession of petitioner. During investigation, petitioner-Mustkeem disclosed the name of one Deepak, a resident of Barara. An FIR was registered in this regard.

4. Learned counsel for petitioner submits that petitioner has nothing to do with the alleged offence and recovery of counterfeit currency notes from him is doubtful. He is not involved in any other case. He submits that co-accused of the petitioner, namely Rakesh Prasad has already been accorded concession of bail by this Court. Though petitioner's case stands on much better footing, 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.

4.1 Learned counsel for the petitioner further submits that Petitioner is 38-year old family man and only bread winner of his family who has added responsibility of his three minor children and wife, who are living in penury in his absence.

4.2 He further argues that petitioner is in custody since 16.02.2023 and challan has already been presented before the competent Court. Charges have been framed on 06.07.2023. There are 18 prosecution witnesses but none of the witnesses has been examined till date. Petitioner is not required for custodial interrogation.

5. On the other hand, learned State counsel, on instructions from SI Sumit Kamboj, opposes the bail petition. He submits that allegations against the petitioner are serious in nature and in case he is admitted to bail, he may commit crime again. Although he candidly admits that petitioner is not required for further investigation.

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

7. Co-accused/Rakesh Prasad has been granted concession of bail by this court vide order dated 12.07.2023 (Annexure P-5). Role attributed to the petitioner appears to be at par with that of his co-accused Rakesh Prasad. In the premise, I see no ground as to why petitioner should not be meted out with similar treatment.

8. 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. Challan is stated to have been presented, charges have been framed. Investigation is thus complete qua petitioner. The case is fixed for prosecution evidence but none of the prosecution witnesses out of 18 witnesses has been examined so far. Since trial has commenced, he is thus not required for custodial interrogation. Commencement/conclusion of the trial is likely to take quite sometime. Whereas petitioner has already been languishing in jail for more than 5 months in preventive custody, he being behind bars since 16.02.2023.

9. 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.

10. Petitioner is stated to be 38-year old family man and only bread winner of his family who has responsibility of his three minor children and wife, who are living in penury in his absence. It is unlikely that he is flight risk or will flee from the trial proceedings. Offence allegedly committed by petitioner is of non-violent nature and in that sense his release on bail is not a threat to the society at large by committing any violent crime.

11. Considering the overall scenario and that similarly situated co-accused Rakesh Prasad has been granted the concession of bail, 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.

12. 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 Magistrate, as the case may be.

13. 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.

14. 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.

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

(ARUN MONGA)
JUDGE

27.07.2023
vandana

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