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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-35034-2023 (O&M)

Date of decision: July 26, 2023

Farsa Ram Bishnoi

....Petitioner

versus

State of Haryana

....Respondent

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

Ms. Svaneel Jaswal, Additional AG Haryana.

ARUN MONGA, J. (ORAL)

Petitioner seeks bail in a case bearing FIR No.95 dated 30.03.2022, registered under Sections 307, 393, 398, 120-B, 420, 473 read with Section 34 of the Indian Penal Code, 1860 (for short 'IPC') and Section 25 of the Arms Act, 1959 (for short 'Arms Act'), at Police Station, City Pehowa, District Kurukshetra.

2. According to the prosecution's account, on 30.03.2022 at approximately 10:45 a.m., the petitioner and his co-accused allegedly committed an armed robbery at a shop in Pehowa. During the incident, gunshots were fired, resulting in an injury to the shop owner named Wazir, who was hit on the neck. The robbers used a car with a fake registration number plate during the crime. Initially, the petitioner was apprehended at the crime scene, but was later freed by other assailants using gunshots. As the investigation progressed, it became evident that the petitioner was the mastermind behind the crime, arranging both the weapons and the car for the offense in question. The petitioner was eventually arrested and has been in custody since 28.08.2022. A pistol, along with a magazine and two live cartridges, were also recovered from the petitioner.

3. Learned counsel for petitioner submits that petitioner has been falsely implicated in this case. Alleged recovery has been planted on him. He submits that co-accused of the petitioner, namely Gurjinder Singh and Gurdeep Singh have already been accorded concession of bail by learned trial Court. Though petitioner's case stands on

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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. He further points out that even star witnesses, namely, Vikas Kumar-PW6 (complainant) and Wazir Singh-PW7 (eyewitness), who are claimed to be eyewitnesses by the prosecution, have not supported the prosecution version in their testimonies, which is appended with the petition as Annexures P-2 and P-3. He further points out that in any case, based on testimonies of prosecution witnesses examined so far, in all likelihood, the trial will result in acquittal of the petitioner.

4. On the other hand, learned State counsel, on instructions from ASI Shiv Kumar opposes the bail petition. She submits that petitioner has committed a serious offence. Petitioner along with co-accused committed robbery and fired gunshots which hit the victim/ injured. She further submits that there is one more case pending against the petitioner. If enlarged on bail, petitioner may tamper with the evidence and/ or influence the witnesses. Challan has already been presented and charges were framed on 11.01.2023.

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

6. Concededly, co-accused of the petitioner have already been granted concession of bail by learned trial Court. Since trial has commenced, petitioner is thus not required for any further custodial interrogation. Moreover, complainant as well as eyewitness have retracted from their earlier statements given to the police. They have not supported the prosecution version. Being so, there seems likelihood of trial resulting in acquittal of the petitioner.

7. 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. On a Court query, learned State counsel informs that out of 32 witnesses, only 8 have been examined so far. Conclusion of trial is still likely to take long time as it is proceeding at a snail pace. Whereas, petitioner has already been languishing in jail for the past around 11 months in preventive custody, being behind bars since 28.08.2022.

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8. 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. It is stated that petitioner is a 27-year old unmarried young boy and has to look after his parents. If not released on bail, he will suffer further adversarial impact on his career prospects and may be rendered jobless forever. Being a family man having responsibilities and fixed abode, it is unlikely that he will flee from the trial proceedings.
9. 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.
10. 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.
11. 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.
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

July 26, 2023

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No