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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRM-M-35711 OF 2023 (O&M)
DATE OF DECISION: 31.07.2023**

Ram Dayal and another**...Petitioners****Versus****State of Punjab****...Respondent****CORAM : HON'BLE MR. JUSTICE ARUN MONGA**

Present : Mr. Abhinav Gupta, Advocate,
For the petitioners.

Ms. Guramrit Kaur, DAG, Punjab.

ARUN MONGA, J. (ORAL)

Petitioners seek bail in case FIR No.309 dated 09.11.2022 (Annexure P-1), under Sections 120-B, 436 of Indian Penal Code, 1860 (for short "IPC") at Police Station, Sahnewal, District Ludhiana.

2. Prosecution version of the case, as per statement of the complainant recorded in FIR, translated copy of which is contained at Annexure P-1, relevant thereof, *in verbatim* is extracted as below:

"x-x-x-x

I do the work of finance and property dealer. On 19.10.2022, I parked my car having no. PB 10 EA 7476 make Alto K10 at time approximately 9:30 PM at vacant plot outside of the house. Then on dated 20.10.2022, at time about 3:30 PM, I heard the sound of explosion then I came out from the house and saw that my car having above said number had caught fire then I with the help of my neighbors put water and extinguished the fire and when I check the CCTV cameras installed at my house then at time approximately 3:15 AM, three persons namely Vivek Pandey @ Raja and Ayush Bahman on one motorcycle were present near my car who did raiki near my car by taking a round and their three other companions were standing in Dark in the chowk adjoining to the street. Who were holding sharp edged weapons in their hands and we came to know after watching the other cameras installed in the street that they spent some time in the house of Nirmala Devi and Ram Dial after going back and after doing raiki. They were doing all this on the asking of the Nirmala Devi wife of Arjun Kumar. Who had also put fire my car on dated 16.07.2022 and in that regard, already one FIR no. 207 dated 19.07.2022 under section 436 of IPC was got registered at police station Sahnewal, Ludhiana, but due to the incompetency of the police and in connivance of the accused persons and by adding the bailable offences, the FIR was made ineffective and despite got apprehending the accused, no recover was affected. It is clear

in the video, but no action was taken and accused was set free in connivance and was assured that there is less loss to your' vehicle and I was said on opposing the same that rest of the accused will be arrested then offence will be added. Till now neither any investigation has been conducted in proper manner nor offence has been added. In that regard, I had given application to the Commissioner, Ludhiana, which is having no. 23160 and number of second application is 6750 which has come to police station by getting it marked by Senior and same was made ineffective by not taking any action by the police station. I have verified on my own level and came to know that Satish Kaushal who is behind the bars, his mother namely Nirmala Devi has got it done. Who is drug paddler and is behind the bars with the allegations of drug paddling. From whom 400 grams of white powder was recovered. Who have doubt that I have got arrested him to the police and due to this reason my car has been put on fire but due to the less loss of the vehicle and by keeping the grudge have put my car on fire in connivance of all i.e. Vivek Pandey @ Raja, Ayush Bahman, Himanshu Lohara, Ram Dial and Ramesh and have turned into ashes, which is now in not working condition. Ayush Bahman and Vivek Pandey @ Raja have participated in putting the fire and Nirmala Devi is the mastermind of all this, who has got committed this act from them by giving the greed of white powder, who are habitual of consuming white powder. I have identified them in CCTV video and photo because who reside to my house and Ram Dial and Ramesh reside opposite to my house who are equally liable with the accused persons who give them shelter because I have got registered two FIR against them one is under section 307 IPC and second is under section 451 IPC and they keep grudge of the same and also extend life threats for not executing the compromise in the above said FIR. Nirmala Devi is a main accused from them and car has been put on fire due to the reason so that I drive motorcycle and it would be easy to kill me on motorcycle because I have been already attacked on motorcycle. When my car was put on fire at that time very important documents with regard to my business, 3/400 rupees, loose money and one broken silver bracelet was lying in the same and after breaking the glass, money and bracelet which was lying in my hand from 15 years and can be seen in every video was taken away and car was put on fire alongwith documents, which is neither in working condition nor is repairable. In which all accused Vivek Pandey @Raja, Ayush Bahman, Himanshu Lohara, Ram Dial, Ramesh and Nirmala Devi are culprits. Appropriate legal action be taken against them and I have danger to my life and life of my family from them.

x-x-x-x”

In course of the investigation, petitioners were arrested as suspects on 17.09.2021.

3. Learned counsel for petitioners submits that petitioners have been falsely implicated in this case. There is unexplained delay of 20 days in registration of FIR as the alleged incident took place on the intervening night of 19-20.10.2022. Both the parties are residents of same locality and due to

previous enmity, petitioners have been falsely implicated to settle personal scores. Petitioners are not involved in any other case. Per prosecution allegations, petitioners only provided shelter to accused who put the car of complainant on fire. There is no connection of petitioners with the crime.

3.1 Learned counsel further argues that co-accused, namely, Vivek Kumar Pandey @ Raja, who is prime accused, has already been granted the concession of anticipatory bail vide order dated 22.03.2023 (Annexure P-3) passed in CRM-M-60148-2022 by a co-ordinate Bench of this Court. As such, petitioners are entitled to concession of bail on the ground of parity alone. Even the alleged role attributed to petitioners stands on much lesser footing than that of co-accused already on bail, yet they are in jail.

4. Per contra, learned State counsel on instructions from HC Jasbir Singh opposes the bail petition on the ground that allegations are serious in nature. If released on bail, there is every likelihood of petitioners tampering with the evidence and influencing/threatening the witnesses.

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

6. Challan was presented on 21.07.2023 and charges are yet to be framed. Investigation is complete *qua* petitioners, they are thus not required for custodial interrogation. Trial is likely to take a long time as it is proceeding at a snail pace. Allegations against petitioners are a matter of trial at this stage.

7. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Whereas petitioners have already been languishing in jail for more than 01 year and 10 months in preventive custody, being behind bars since 17.09.2021. He 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.

8. Petitioners are stated to be street vendors. Both are married and have families to look after who are living in sheer penury, in their absence.

Being family men having responsibilities and clean antecedents, it is unlikely that they are flight risk or will flee from the trial proceedings.

9. Co-accused-Vivek Kumar Pandey alias Raja has been granted concession of anticipatory bail by this Court vide order dated 22.03.2023 (Annexure P-3). Alleged role attributed to the petitioners appears to be on lesser footing than that of their co-accused already on bail. In the premise, I see no ground as to why petitioners should not be meted out with similar treatment.

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, petitioners are ordered to be released on bail, in case not required in any other case, on their furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where their case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.

12. In case, petitioners are found to be involved or get involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of their 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 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.

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

JULY 31, 2023
Shalini

(ARUN MONGA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No