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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: August 29, 2023

Manjit Singh @ Delhi

....Petitioner

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Rishu Mahajan, 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 undertrial in a case bearing FIR No.23 dated 08.02.2022, registered under Sections 25 of the Arms Act, 1959 (for short 'Arms Act') (Sections 393, 120-B, 148 read with Section 149 of the Indian Penal Code, 1860 (for short 'IPC') added later on), at Police Station, Chattiwind, District Amritsar.

2. Per prosecution version, complainant, namely Deepak Mahajan, Deputy Manager, SBI Branch, Rampura alleged that on 08.02.2022, he along with Manager Kulwinderpal Singh, Clerk Hunny Chawla and Housekeeping Kanwaljit Kaur was present in the Bank, and security guard, namely, Nirvail Singh had gone to Court complex for gun retainer licence. Three-four customers were also there in the Bank. At about 3:30 pm., one unknown Sikh young man entered the Bank followed by two more unknown boys. All were masked. Sikh young man and his other accomplices took out pistols from their *dubs*. At the same time, one customer went towards main gate of the Bank. Upon this, three young men also followed him and thereafter, decamped on their motorcycles towards Amritsar side. During investigation, petitioner was arrested and is in custody since 26.02.2022.

3. Learned counsel for petitioner contends that petitioner was not present at the spot, and even as per FIR, no attempt to rob the Bank was made. Petitioner was also not named in the FIR. He further contends that star witness of the prosecution (PW1),

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who is also the complainant, has already been examined and he has not supported the prosecution version as he has not identified the petitioner. Petitioner has thus been falsely implicated in this case. He further points out that in any case, based on testimony of PW1 examined so far, in all likelihood, the trial will result in acquittal of the petitioner.

3.1. Learned counsel for the petitioner also contends that co-accused of the petitioner, namely, Rakesh Kumar alias Vicky has already been granted concession of bail by a co-ordinate Bench of this Court vide order dated 04.07.2022 passed in CRM-M-27720-2022.

4. On the other hand, learned State counsel opposes the bail petition. He submits that petitioner has committed a serious offence. He further submits that there are 5 more cases of similar nature against the petitioner, and if enlarged on bail in present case, there is every likelihood that petitioner may tamper with the evidence and/ or influence the witnesses.

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

6. Challan was filed way back, charges were framed on 13.02.2022 and trial commenced thereafter. Petitioner is thus not required for any further custodial interrogation. Moreover, PW1 has retracted from his earlier statement given to the police. He has 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, under instructions from SI Niranjan, informs that out of 16 witnesses, only 01 has 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 more than 1 year and 6 months, being behind bars since 26.02.2022.

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.

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9. It is stated thatpetitioner is a 25-year old young person having old aged mother to look after since his father has already expired. He has added responsibility of looking after his sister, who is of marriageable age. They all are dependent on him and are living in sheer penury in his absence.Long continued incarceration of the petitioner may render him jobless forever. Being family manand having fixed abode, it is unlikely that they pose any flight risk and/or will flee from trial proceedings.
10. Co-accused of the petitioner is also stated to have been granted bail by a co-ordinate Bench of this Court.
11. 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.
12. 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.
13. 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.
14. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

August 29, 2023

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No