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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-38018-2023 (O&M)

Date of decision: August 10, 2023

Satbir @ Lila

....Petitioner

versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Chander Pal Tiwana, Advocate for petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

ARUN MONGA, J. (ORAL)

After being declined bail by the trial Court, petitioner, before this Court seekshis release as undertrial in a case bearing FIR No.54 dated 22.02.2023, registered under Sections 406, 420, 506, 120-B, 201, 467, 468, 471 of the Indian Penal Code, 1860 (for short 'IPC'), at Police Station, Sadar Kaithal, District Kaithal.

2. Per prosecution version, complainant sold his two trolleys to an unknown person for sum of Rs.2,40,000/- on 15.01.2023. He gave a cheque bearing No.000005 of HDFC Fatehabad assuring that same would be honoured. However, on its presentation in Union Bank, Kaithal the cheque was dishonored. Cheque though bore signatures of one Arun, but the bank account was in the name of some other person. Thereafter, when complainant confronted the unknown man for payment of money, he threatened to kill him. An FIR was registered in this regard. During investigation, one Naresh Kumar @ Bintu was arrested and on his disclosure statement, petitioner was arrested. Petitioner is in custody since 13.04.2023.

3. Learned counsel for petitioner submits that petitioner has been falsely implicated on the basis of disclosure statement of co-accused, namely Naresh @ Bintu. He further submits that neither petitioner induced the complainant nor had threatened him. He also submits that petitioner did not even handover the alleged cheque to the complainant.

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3.1. 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.

3.2. Learned counsel further contends that co-accused of the petitioner, has been granted concession of interim anticipatory bail vide order dated 21.06.2023 (Annexure P-3) passed in CRM-M-30954-2023 by a co-ordinate Bench of this Court.

4. On the other hand, learned State counsel, on instructions from ASI Jaswant Singh, opposes the petition and submits that petitioner has committed a serious offence. He submits that there are 4 more cases against the petitioner, out of them, in 2 cases, he has been acquitted and in the remaining two cases, he is an undertrial. If released on bail, he might tamper with evidence or influence/ intimate the witnesses and also flee from trial.

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 *qua* petitioner and co-accused, namely Naresh was presented on 07.07.2023, but charges are yet to be framed. Investigation *qua* petitioner and co-accused 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. 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 about 4 months in preventive custody, being behind bars since 13.04.2023.

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

8. It is stated that petitioner is a 54-year old person who is carrying out business of scrap dealing and had purchased the alleged stolen trolley in good faith not knowing that same was stolen by prime-accused. Learned counsel for applicant submits that had he got any knowledge about the trolley being a stolen property, payment by him

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would not have been made through banking channel; same reflects that petitioner has no complicity in the alleged crime of prime-accused. Being a family man and having fixed abode, it is unlikely that petitioner poses any flight risk and/or will flee from trial proceedings.

9. Co-accused of petitioner has already been granted the concession of interim anticipatory bail by a Coordinate Bench of this Court.

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 10, 2023
mahavir

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