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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: August 01, 2023

Ravinder @ Bholu

....Petitioner

versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Parveen Sharma ,Advocate for petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

ARUN MONGA, J. (ORAL)

After being declined bail by the trial Court, petitioner before this Court seeks his release as undertrial in criminal case bearing FIR No.432 dated 25.09.2019, registered under Sections 302, 307 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') (Sections 120-B, 201 IPC added later on), at Police Station, Sadar Sonipat, District Sonipat.

2. According to the prosecution's account, petitioner along with his co-accused hatched a criminal conspiracy to eliminate Renu and Meenu. Petitioner and his co-accused are suspected to have committed murder of Meenu and her 5-monthold child by firing gun shots. An FIR was registered. Petitioner was arrested 28.09.2019 and has been in custody since then.

3. Learned counsel for petitioner submits that petitioner has been falsely implicated in this case. Petitioner has not committed the alleged offence. Learned counsel for petitioner refers to the testimonies (Annexures P-2 to P-4) of the four star prosecution witnesses, who have already been examined. He submits that none of them have supported the prosecution version. He further points out that not only that, complainant Neeraj (PW4) as well as eye witness/injured Renu (PW-3) have out rightly denied that it was the petitioner who fired gunshots which resulted in death of victims. 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.

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4. On the other hand, learned State counsel, on instructions from ASI Jagdish, opposes the bail petition. He submits that petitioner has committed the most serious offence under IPC. He further submits that there is one more case pending against the petitioner, but he is on bail in that case. But if enlarged on bail in present case, 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 16.03.2021 and trial commenced thereafter. 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 44 witnesses, only 9 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 more than 3 years and 10 months in preventive custody, being behind bars since 28.09.2019.

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 29-year old unmarried young boy and is an agriculturist having 1 acre of land in his name and has to look after his parents. 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

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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

August 01, 2023

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No