

CRM-M-38434-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: 11.08.2023

Balbir Singh @ Lakhi

....Petitioner

V/s

State of Punjab

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Parminder Singh Sekhon, Advocate for the petitioner.

Ms. Guramrit Kaur, DAG Punjab.

ARUN MONGA, J. (Oral)

After being declined bail by the trial Court, petitioner before this Court seeks his release as undertrial in case bearing FIR No.11 dated 04.03.2023 (Annexure P-1), registered under Sections 307, 326, 341, 324, 323, 148 read with Section 149 of the Indian Penal Code, 1860 (for short 'IPC') at Police Station, Sherpur, District Sangrur.

2. Per FIR, on 03.03.2023, in the dark of evening, complainant Jaspreet Singh along with his two friends was on way home when they were attacked by assailants who came on 3/4 motorcycles. All the assailants were armed with deadly weapons like kirpan and rods. They inflicted number of injuries on complainant and his friends. On seeing the light of an approaching vehicle, assailants fled away from the scene of occurrence on their respective motorcycles along with their weapons. In course of investigation, on the supplementary statement of the complainant and disclosure statement of one of the co-accused, petitioner was also arrested as a suspect on 07.03.2023.

3. Learned counsel for the petitioner contends that petitioner has been falsely implicated in the present case. He submits that petitioner is neither armed with any weapon nor attributed any specific injury. Moreover, name of the petitioner surfaced in the supplementary statement of complainant and disclosure statement of co-accused. Such a custodial statement obtained under coercion is not admissible in court. He further submits that entire investigation has now already been completed.

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3.1 Learned counsel further contends that nothing is to be recovered from the petitioner and no useful purpose would be served by keeping him behind bars.

4. Per contra, learned State counsel, on instructions from SI Avtar Singh, opposes the bail petition and contends that petitioner has committed serious offence. She further submits that petitioner was an accomplice of the co-accused and actively participated in the commission of crime. She further submits that common intention on the part of petitioner cannot be ruled out at this stage. According to her, two injuries inflicted on the complainant were declared dangerous to life. Learned State counsel further points out that petitioner is also involved in another FIR under Section 52-A of Prisons Act.

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

6. Custody certificate dated 10.08.2023 has been tendered in course of hearing by learned State counsel, which is taken on record.

6.1 On a Court query, learned State counsel submits that challan was presented on 10.08.2023 and charges have not been framed. Investigation 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. There are total 17 prosecution witnesses. Conclusion of trial is still likely to take long time as it is proceedings at a snail pace. Whereas, petitioner has already been languishing in jail for the past more than 5 months in preventive custody, being behind the bars since 07.03.2023.

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 19-year old young man and was working as a Carpenter. His continued incarceration may jeopardize his career prospects and he may

also rendered jobless forever. Being a family person and having fixed abode, it is unlikely that petitioner poses a flight risk and/or will flee from trial proceedings.

9. Considering the overall scenario and without commenting on merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep petitioner in further preventive custody in instant case.

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. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on merits 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.

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

(ARUN MONGA)
JUDGE

August 11, 2023
Ajay

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