

CRM-M-38890-2023 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-38890-2023 (O&M)

Date of decision: September 04, 2023

Ankush Tandon @ Bawa

....Petitioner

versus

State of Punjab

....Respondent

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

Mr. Shubham Kaushik, 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.210 dated 04.09.2022, registered under Sections 323, 324, 506 of the Indian Penal Code, 1860 (for short 'IPC') (Sections 325, 307 of IPC added later on) at Police Station, Haibowal, District Police Commissionerate, Ludhiana.

2. Per prosecution version, the complainant, Arun Bala, stated that on August 26, 2022, the petitioner inflicted severe injuries upon her husband, Rakesh Kumar Sharma, while he was at his Kiryana shop. Upon her arrival at the scene, she discovered her husband lying unconscious outside the shop with blood oozing from his wounds. The petitioner was also present at the scene, holding a 1 kg weight (*Watta*). An FIR was subsequently registered on her statement. According to the medical legal report (MLR) from DMC Hospital, injury No.1 was deemed life-threatening, and the weapon used was described as blunt. During investigation, petitioner was arrested on 28.02.2023 and is in custody ever since.

3. Learned counsel for petitioner submits that alleged incident of 26.08.2022 and FIR in question was registered after a delay of 11 days i.e., on 04.09.2022 giving no explanation for the said delay. He further contends that complainant was not present at the alleged place of occurrence and complainant has made contradictory statements. At one point, she stated alleged weapon to be a measuring weight and at another point she

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stated it to be a brick. Petitioner has thus been falsely implicated in this case. He further argues that challan has already been filed, but even after 4 months, charges are yet to be framed.

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.

4. On the other hand, learned State counsel opposes the bail petition. He submits that petitioner has committed a serious offence. He further contends that petitioner caused injury on the head of victim with a measuring weight of 1 kg. Injury No.1 to the victim has been declared as dangerous to life. If enlarged on bail in present case, there is every likelihood that petitioner may tamper with the evidence and/ or influence the witnesses. He though admits that petitioner is not involved in any other case of similar nature.

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

6. Challan was filed on 31.03.2023, but charges are yet to be framed. Investigation is complete and petitioner is thus not required for any further custodial interrogation.

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, on instructions from ASI Gurmail Singh, submits that out of total 15 witnesses, none has been examined so far since charges are not yet framed. 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 6 months, being behind bars since 28.02.2023.

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.

9. It is stated that petitioner is a 30-year old who was working as an employee in a private firm and has lost his livelihood due to his continued incarceration. His further incarceration may render him jobless forever. Being family man and having fixed abode, it is unlikely that he poses any flight risk and/or will flee from trial proceedings.

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.

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

September 04, 2023

Whether speaking/reasoned: Yes/No

MAHAVIR SINGH
2023.09.05 10:15
I attest to the accuracy and
authenticity of this order/ judgment