

CRM-M-38967-2023

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

223

CRM-M-38967-2023

Date of decision: 10.10.2023

Monu

...Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Saleem Ahmed, Advocate for the petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

ARUN MONGA, J. (Oral)

Following the denial of bail by learned trial court, the petitioner is now before this Court seeking his release as an undertrial in a case with FIR No. 145 dated 15.04.2023, registered under Section 307, 323, 506 read with Section 34 of the Indian Penal Code, 1860 (for short 'IPC'), at the Bilaspur, Police Station in Gurugram.

2. According to the prosecution's account, the complainant, Krishna, alleged that she had opened a Dhaba near Panchgaon, KMP Highway. On April 09, 2023, at night, she was present at her Dhaba. The petitioner, along with 2/3 persons, arrived at her Dhaba in a vehicle and started manhandling her. The petitioner threatened the complainant to close her Dhaba or face dire consequences. On the day of the occurrence, i.e., April 15, 2023, at around 04:30 pm, when the complainant, along with her son, Sachin, was inside the Dhaba, the petitioner, accompanied by co-accused, drove his car bearing registration No. HR-74B-4475 inside her Dhaba with the intention to harm them. Consequently, an FIR was registered. The petitioner, Monu, was taken into custody on April 21, 2023, and has remained incarcerated since then.

3. Among other arguments, it is contended that no grievous injury was suffered by the complainant or any other person. Section 307 IPC was invoked by the police in collusion with the complainant, and there is no evidence regarding the same. The petitioner's counsel further claims that the petitioner is innocent and has not committed any offense. He further contends that the FIR's version is fabricated, and the petitioner is not linked to the alleged offense.

3.1. Furthermore, the petitioner's counsel asserts that there is no substantial evidence against the petitioner, and nothing is to be recovered from him. It is also mentioned that the challan has already been submitted, and the conclusion of the trial is expected to take a considerable amount of time. Consequently, it is argued that there would be no benefit in keeping the petitioner in custody.

4. On the contrary, the learned State counsel strenuously opposes the petition, expressing concerns about the possibility of the petitioner fleeing from trial proceedings if granted bail. He submits that the allegations against the petitioner are serious. He further submits that petitioner is a habitual offender and is involved in nineteen other cases, details whereof are contained at Annexure R-1 attached with the reply/status report dated 13.09.2023 by way of affidavit of Assistant Commissioner of Police, Pataudi, District Gurugram. On a Court's query, learned State counsel does not dispute the fact that injury suffered by complainant was simple in nature.

4.1 In rebuttal, learned counsel for the petitioner submits that petitioner has been acquitted in five cases and is on bail in four other cases.

5. I have heard the rival arguments and reviewed the case file.

6. In response to a query from the Court, it transpires that the investigation against the petitioner has been completed, and charges were yet to be framed. At this stage, the allegations against the petitioner are subject to trial. Of the fourteen prosecution witnesses, none has been examined so far. The trial's progress has been slow, and it is anticipated to take a considerable amount of time. Bail serves the purpose of allowing an accused to remain free until their guilt or innocence is determined. In contrast, the petitioner has been in detention since April 21, 2023, for more than 05½ months.

7. The petitioner's continued preventive custody is based on an unsubstantiated suspicion that he might tamper with evidence or influence witnesses.

8. The petitioner is stated to be a family person with wife and one minor child. He is the sole provider for his family, which is currently living in dire poverty in his absence. As a responsible family man with a clean record and a stable residence, the petitioner is unlikely to pose a flight risk or evade trial proceedings.

9. Considering the overall scenario, 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.

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 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.

CRM-M-38967-2023

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 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

October 10, 2023
Ajay

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