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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-39069-2023 (O&M)

Date of decision: August 17, 2023

Vikas

....Petitioner

versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Sanjiv Kumar Yadav, 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.701 dated 07.12.2022, registered under Sections 120-B, 177, 419, 420, 467, 468, 471of the Indian Penal Code, 1860 (for short 'IPC'), at Police Station, Ambala City, District Ambala.

2. Per prosecution version, FIR was lodged on a complaint received from the Court of ACJM, Ambala stating that in compliance of order dated 07.12.2022 passed by learned Sessions Judge, Ambala, anapplication for acceptance of bail bonds and surety bonds of accused-Sunil Kumar Rana was filed in the said court and said accused wasgranted bail on his furnishing bail bond in the sum of Rs.30,000/- with one surety in the like amount. One Dinesh son of Marmpa, furnished surety bond On behalf of accused. He was identified by Vikas (petitioner) son of Sukhdev. Aforesaid surety and identifier attached photocopies of Aadhar Cards. During checking of bonds, identity of the surety was found to be fake. Dinesh later disclosed is his real name as Sandeep Sharma. He was wrongly verifiedby petitioner.Petitioner was arrested on 07.12.2022 and is in custody since then.

3. Learned counsel for petitioner submits that petitioner himself is a victim of impersonation of the surety. He was trapped by main accused Sandeep. Petitioner was not aware that Sandeep Sharma is impersonating as Dinesh son of Marmpa. Petitioner is not involved in any other case.

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3.1. Learned counsel also submits that even the mina accused-Sandeep Sharma has been granted concession of bail vide order dated 17.07.2023 (Annexure P-3) passed in CRM-M-33019-2023 by this Court.

4. On the other hand, learned State counsel, on instructions from HC Surjeet Singh, opposes the petition and submits that petitioner has committed a serious offence. Petitioner identified a fake person who acted as surety at the time of presenting bail bonds of one Sunil Kumar. If enlarged on bail, there is every likelihood that he will commit similar offence and/or will flee from trial, and he might tamper with evidence or influence/ intimidate the witnesses.

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 was presented and charges were framed on 15.02.2023. Investigation *qua* petitioner is complete, he is thus not required for custodial interrogation. Out of total 13 witnesses, only 01 have been examined so far. 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. Whereas, petitioner has already been languishing in jail for the past more than 8 months in preventive custody, being behind bars since 07.12.2022.

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. Offence allegedly committed by petitioners is of non-violent nature and in that sense his release on bail is not a threat to society at large by committing any violent crime.

8. It is stated that petitioner is 26-year old unmarried person and has to look after his ailing sister who is suffering from Acquired Immunodeficiency Syndrome (AIDS) and also his younger brother, who too is totally dependent on him since his parents are no more. Having responsibilities, clean antecedents and fixed abode, it is unlikely that he poses any flight risk and/or will flee from trial proceedings.

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9. Co-accused-Sandeep Sharma, stated to be the prime culprit, has already been granted bail by 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 17, 2023

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No