

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-39168-2023

Date of decision: 18.08.2023

Gurchand

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Ravi Malik, Advocate for
Mr. Ashik Ali, Advocate for the petitioner.
Mr. Vikas Bhardwaj, AAG Haryana.

Ms. Nancy Vashistha, Advocate for
Mr. Namit Khurana, Advocate for the complainant.

ARUN MONGA, J. (Oral)

After being declined bail by the trial Court, petitioner before this Court seeks his release as an undertrial in a case bearing FIR No. 270 dated 28.10.2020(Annexure P-1), registered under Sections 385, 403, 406, 407, 420, 506, 201 and 120-B IPC of the Indian Penal Code, 1860 (for short 'IPC') at Police Station, Chhappar, District Yamuna Nagar.

2. FIR was registered after on the basis of a criminal complaint filed before learned Magistrate, wherein an investigation was ordered under Section 156(3) Cr.P.C. It is alleged by the complainant that he had purchased a truck bearing registration No.HR-64-5574, which was hypothecated with Equitas Small Finance Bank. Subsequently, the said truck was sold to the petitioner on 02.07.2018. At the time of possession, petitioner paid a sum of Rs.70,000/- in cash and issued a cheque for the remaining amount of Rs.50,000/-. It was also agreed by the petitioner that he would pay the remaining 28 instalments of Rs.22,020/- to the aforesaid Bank, from which the complainant had taken the loan. Thereafter, neither the aforesaid cheque was honored nor petitioner had paid the remaining instalments to the Bank. Instead petitioner in connivance with co-accused got registered a false case against the complainant. In the said case, complainant was arrested but after investigation, a cancellation report was submitted, which was accepted. Thereafter, complainant requested the petitioner to return the truck but to no avail.

3. Learned counsel for the petitioner contends that petitioner has been falsely implicated in the present case. He submits that no recovery is to be effected from the petitioner. No custodial interrogation is required either. He further submits that petitioner was arrested on 06.08.2021 but was granted the concession of interim bail on account of COVID-19 pandemic and he never misused the said bail privilege. Post pandemic, petitioner himself surrendered on 14.07.2023 and is in custody since then. Further submits that challan has already been presented. Conclusion of trial will take long time. Thus, no useful purpose would be served by keeping the petitioner behind the bars. No other case is pending against him.

4. Per contra, learned State counsel, opposes the bail petition and contends that petitioner has committed serious offence. He further submits that petitioner is the main culprit and does not deserve the concession of bail.

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, on instructions from ASI Jaswinder Singh, submits that challan was presented on 04.10.2021. 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. Trial has commenced and out of total 10 witnesses, none has 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 last more than one month, he being in custody since 14.07.2023.

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. Be that as it may, offence allegedly committed by petitioner 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.

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9. It is stated that petitioner is a 39-year old man and his continued incarceration may renderedhim jobless forever. Being a family person and having fixed abode and clean antecedents, it is unlikely that petitioner poses a flight risk and/or will flee from trial proceedings.
10. 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.
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. 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.
13. 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.
14. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

August 18, 2023
Ajay

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No