

CRM-M-39538-2023 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-39538-2023 (O&M)

Date of decision: September 13, 2023

Bikramjit Singh

....Petitioner

versus

State of Punjab

....Respondent

**CORAM: HON'BLE MR. JUSTICE ARUN MONGA**

**Present:-** Mr. Kuljit Singh Bal, Advocate for petitioner.

Mr. Shubham Kaushik, AAG Punjab.

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**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.327 dated 27.11.2022, registered under Section 379-B (2) (added later on), 411, 201 (added later on) of the Indian Penal Code, 1860 (for short 'IPC') and Section 25 of the Arms Act, 1959 (for short 'Arms Act'), at Police Station, Sadar Amritsar, District Amritsar.

2. Per prosecution version, on 26.11.2022 at about 10.00 p.m., one Amar Singh, riding on a motorcycle along with his pillion-petitioner came where the complainant was simply standing. Petitioner pointed a pistol and snatched mobile phone of complainant. Next day, on 27.11.2022, the petitioner and co-accused both were later allegedly found loitering near the same place of occurrence. They were arrested by the police party. Snatched mobile was recovered from co-accused Amar Singh and a Pistol .32 bore alongwith two live cartridges were recovered from petitioner.

3. Learned counsel for petitioner contends that occurrence in question had taken place on 26.11.2022, whereas FIR was registered on 27.11.2022. Thus, there is an unexplained delay of 01 day in lodging the FIR. He further contends that prosecution version, on the fact of it, seems to be false and unpalatable, and it is strange that the persons, who allegedly committed the crime in question will again go to the same very place of occurrence and simply stand there to be arrested. Further submits that no offence under Sections 379-B (2) as well as Sections 411, 201 of IPC has been made out against the petitioner. The alleged recovery of pistol and live cartridges from the petitioner is a planted one just to involve him in the false case. He further contends that during whole of the trial, it

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would always remain a moot point regarding any alleged recovery effected from conscious possession of the petitioner. Further states that in any case, investigation is complete and allegation attributed to the petitioner will be adjudicated in course of trial which is yet to commence.

3.1. Learned counsel further contends that co-accused of the petitioner, namely Amar Singh has already been granted the concession of bail by this Court vide order dated 07.07.2023 (Annexure P-2) passed in CRM-M-15077-2023, but petitioner continues to languish in the jail.

4. On the other hand, learned State counsel opposes the petition. He submits that petitioner along with other co-accused have committed a serious offence. He further submits that an illegal pistol .32 bore along with two live cartridges were recovered from the petitioner, and mobile phone was recovered from his co-accused. If released on bail, there is likelihood of petitioner fleeing from trial proceedings and/or tampering with evidence and influencing witnesses. He, however, admits that petitioner is not involved in any other case.

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 Tarsem Singh, submits that challan was presented way back on 21.02.2023. Investigation *qua* petitioner 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. 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 09 months, being behind bars since 27.11.2022.

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. 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 having a fixed abode and clean antecedents, it is unlikely that petitioner poses any flight risk and/or will flee from trial proceedings.

9. Co-accused of petitioner has already been granted the concession of bail.

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 13, 2023  
mahavir

| Whether reportable: | Yes/No |
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