

CRM-M-40872-2023 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-40872-2023 (O&M)

Date of decision: August 24, 2023

Parvesh alias Chotti

....Petitioner

versus

State of Haryana

....Respondent

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

Mr. Vikas Bhardwaj, AAG Haryana.

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.56 dated 02.03.2021, registered under Sections 342, 379-B, 392, 506, 201 of the Indian Penal Code, 1860 (for short 'IPC') and Section 25 of Arms Act, 1959 (for short 'Arms Act'), at Police Station, Assaudha, Bahadurgarh, District Jhajjar.

2. According to the prosecution's account, on 01.03.2021 at about 10.15 p.m., two boys came to petrol pump in car and asked the Salesman, namely Sonu, to fill the fuel-tank of the car. However, before the fuel could be filled, both of them pulled out pistols, and pushed Vicky and Lalit in a room. There were 2-3 more boys sitting in the car who looted approximately of sum of Rs.35,000/- (Rupees Thirty Five Thousand Only) from the petrol pump. They also physically assaulted the salesman before leaving the spot and also extended threats to kill him. An FIR was registered. During investigation, petitioner was arrested as a suspect and is in custody since 02.08.2021.

3. Learned counsel for petitioner refers to the testimonies (Annexures P-2 to P-4) of the three prosecution witnesses including the complainant, who have already been examined. He submits that none of them have supported the prosecution version and have turned hostile. Petitioner has thus been falsely implicated in this case. He further points

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out that in any case, based on testimonies of prosecution witnesses examined so far, in all likelihood, the trial will result in acquittal of the petitioner.

3.1. Learned counsel for the petitioner also contends that co-accused of the petitioner, namely, Vinod Kumar has already been granted concession of bail by learned Court below vide order dated 22.05.2023 (Annexure P-5).

4. On the other hand, learned State counsel, on instructions from SI Narender Kumar, opposes the bail petition. He submits that petitioner has committed the most serious offence under IPC. He further submits that there are 26 more cases pending against the petitioner and if enlarged on bail in present case, there is every likelihood that petitioner may tamper with the evidence and/ or influence the witnesses. He, however, does not controvert that complainant as well as two other prosecution witnesses have turned hostile and did not support prosecution version.

4.1. On the contrary, learned counsel for petitioner submits that out of 26 cases, petitioner has been acquitted in 19 cases and in 7 cases, he has already undergone the sentence.

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

6. Challan was filed way back, charges were framed on 20.12.2021 and trial commenced thereafter. Petitioner is thus not required for any further custodial interrogation. Moreover, complainant as well as eyewitness have retracted from their earlier statements given to the police. They have not supported the prosecution version. Being so, there seems likelihood of trial resulting in acquittal of the petitioner.

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 informs that out of 28 witnesses, only 6 have 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 past more than 02 years, being behind bars since 02.08.2021.

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

Whether reportable:	Yes/No
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