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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-40611-2023 (O&M)

Date of decision: August 24, 2023

Rajesh

....Petitioner

versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Ms. Manisha Nehra, 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.61 dated 08.04.2019, registered under Sections 379-B read with Section 34 of the Indian Penal Code, 1860 (for short 'IPC') (in challan, Section 379-B IPC deleted and Sections 394, 120-B of IPC added), at Police Station, Bass, Hansi, District Hisar.

2. According to prosecution's version, on 08.04.2019, complainant, namely Zile Singh, while standing on Hansi Bhiwani Road, sought lift from approaching white coloured Tata Sumo car. Two unknown persons were sitting in the said car and complainant also sat with them. When car reached some distance, driver of the car turned the same towards Sisar and stopped it at a distance of 2 km (approx.). The other occupants of car gave punch blows and slapped the petitioner and snatched Rs.2,55,250/- from the pocket of complainant and they then pushed him out of the car. Complainant suffered many injuries. Thereafter, culprits turned the car and ran away. Son of the complainant reached the spot and complainant got first aid from Government Hospital, Hansi. Complainant could not note down the registration number of the car. An FIR was registered. During investigation, petitioner was arrested as a suspect on 09.05.2019.

2.1. Petitioner was earlier granted bail, but subsequently was declared a proclaimed person. Petitioner was again arrested on 01.05.2023 and is in custody since then.

3. Learned counsel for the petitioner submits that petitioner was earlier granted concession of bail, and was appearing before the Court below regularly from time to time. On 10.02.2023, petitioner was wrongly declared proclaimed person and his bail was cancelled due to his non-appearance. A separate FIR under Section 174-A of IPC was also registered against the petitioner, in which petitioner was arrested on 01.05.2023. He further submits that petitioner has already undergone his sentence in the aforesaid case. Further contends that petitioner is not involved in any other case. No independent witness was joined by the police. Police officials had made a concocted story against the petitioner. Petitioner has thus been falsely implicated, contends the learned counsel.

3.1. Learned counsel further submits that co-accused of the petitioner have also been granted concession of bail by learned Court below.

3.2. Learned counsel further urges that nothing is to be recovered from the petitioner and no useful purpose would be served by keeping him behind bars.

4. On the other hand, learned State counsel, on instructions from ASI Vijender Singh, opposes the petition and submits that petitioner has committed a serious offence. Petitioner had misused the concession of bail earlier granted to him. 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. He further submits that petitioner was convicted in another case under Section 174-A of IPC, but admits that he has already undergone the sentence in that case.

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

6. Concededly, petitioner was earlier granted concession of bail by learned Court below. Before that he remained in judicial custody from 09.05.2019 to 05.12.2019. It is stated that inadvertently, petitioner absented himself and he was declared a proclaimed person and a separate case under Section 174-A of IPC was registered against

him in the FIR under Section 174-A of the IPC. Petitioner was again arrested on

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01.05.2023. He has already undergone the sentence and was released by learned Court below vide order dated 07.08.2023.

7. Allegations against petitioner are a matter of trial at this stage. On a Court query, learned State counsel informs that challan was presented. Out of total 18 witnesses, none has been examined so far since charges are yet to be framed. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Whereas, petitioner has already been languishing in jail for the past more than 3 months, being behind bars since 01.05.2023.

8. 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.

9. It is stated that petitioner is 23-year old young person having wife and one minor child who are living in sheer penury in his absence. Being family man and having fixed abode, it is unlikely that he poses any flight risk and/or will flee from trial proceedings.

10. Co-accused of the petitioner is stated to have already been granted concession of bail by learned Court below.

11. 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.

12. 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. 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.

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

(ARUN MONGA)
JUDGE

August 24, 2023

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No