

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

207

CRM-M-42184-2023 (O&M)

Date of decision: 01.09.2023

Makhan Singh

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Vinod Kumar, Advocate for the petitioner.

Mr. Mohit Thakur, AAG, Punjab.

Mr. R.K.Arya, Advocate,
For the complainant.

ARUN MONGA, J. (Oral)

After being declined bail by learned trial Court, petitioner before this Court seeks his release as an undertrial in a case bearing FIR No.317 dated 16.11.2021, registered under Sections 436, 429 read with Section 149 of the Indian Penal Code, 1860 (for short 'IPC') at Police Station, Ajnala, District Amritsar Rural (Punjab).

2. As per prosecution version, FIR was registered on the basis of statement of complainant Bittu Singh alleging that on 15.11.2021, at about 8.00 p.m., petitioner along with co-accused had set his house on fire. Valuable household articles along with cash amount of Rs.40,000/- were thus burnt. Three cattle heads also perished in the fire. Petitioner is in custody since 07.07.2023.

3. Learned counsel for petitioner contends that present FIR is completely motivated with false allegations and is a counter blast to an earlier FIR No.308 dated 28.01.2021. Petitioner is maternal uncle of the complainant. There is a lot of previous litigation pending between the two brothers, namely, Ninder Singh and complainant. Petitioner in the larger family interest, had merely intervened and to get the matter settled. Dalip Singh, brother-in-law of the petitioner is a very old person. He has already partitioned the land between the

complainant and other son Ninder Singh. However, the complainant wants to grab the share of his father. Dalip Singh, the father, has also filed a civil suit wherein order of status quo has already been passed by the Civil Court.

3.1. Learned counsel for petitioner also submits that nothing is to be recovered from the petitioner and he is not required for further custodial interrogation. There is no likelihood of petitioner tampering with evidence and/or influencing prosecution witnesses.

3.2 He further submits that co-accused Ninder Singh, who has been attributed similar role, was earlier granted interim anticipatory bail and which has been made absolute vide order dated 31.08.2023 by this Court, while the petitioner continues to be in jail.

4. On the other hand, learned State counsel, assisted by learned counsel for complainant, opposes the bail petition. He submits that petitioner has committed a serious offence. He further submits that another case under Sections 323, 379 IPC is pending against the petitioner, but he is on bail in that case.

5. On a Court query, learned State counsel, on instructions from SI Paramjit Singh, submits that challan is in final stages of preparation and likely to be presented soon. Allegations against petitioner are mater of trial at this stage. Commencement/conclusion of trial is still likely to take long time. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Whereas, petitioner has already has already been jail for the past 01 month and 25 days, being behind bars since 07.07.2023.

6. 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.

7. Petitioner is stated to be 54-year old family man agriculturist having his own land. Being married person, having family responsibilities and fixed abode, he poses no flight risk or threat to the society at large.
8. Co-accused of petitioner, namely, Ninder Singh has already been granted concession of anticipatory bail by this Court.
9. 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.
10. Accordingly, petitioner is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned Chief Judicial Magistrate/Illaq Magistrate/Duty Magistrate, as the case may be.
11. In case, petitioner is found to be involved or get involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of his bail in the instant case.
12. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on merits of 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.
13. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

01.09.2023
vandana

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No