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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-41986-2023 (O&M)

Date of decision: August 31, 2023

Nitesh

....Petitioner

versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Rahul Gautam, Advocate,
Mr. Vivek Dahiya, Advocate,
Mr. H.R. Thakur, 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 undertrial in a case bearing FIR No.286 dated 08.04.2022, registered under Sections 120-B, 420, 467, 468, 471 of the Indian Penal Code, at Police Station, Sadar, Karnal.

2. Per prosecution version, on April 6, 2022, the complainant, Head Constable Narender Singh of the Detective Staff in Karnal and other police officials, were deputed at Baldi bypass on G.T. Road for patrolling and crime detection. They received confidential information that a red bus with registration number AR01-L-5415, traveling from Delhi to Himachal, was parked near Jhilmil Dhaba on a link road. The information suggested that the bus had a counterfeit number plate and falsified documents. Acting on this tip, the complainant reached the location and found the bus. Adjacent to the bus was its driver, Brij Lal, son of the late Jwala Ram and resident of village Nihri, P.S. Sundar Nagar Colony, District Mandi, Himachal Pradesh. The driver was asked for documents, who informed the complainant that the bus belonged to Nitesh Kumar (the petitioner) and that Nitesh Kumar possessed all the necessary documents for the bus. However, as the complainant proceeded to search the bus, the driver fled from the scene. Bus was inspected, no documentation was found. The engine and chassis numbers of the bus were recorded. The rear number plate displayed the registration number AR01-L-5415. Despite

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waiting for the driver, he did not return. With assistance from another driver, the bus was taken to the premises of the Detective Staff in Karnal. The head of the Detective Staff was informed and an entry was made in the record book.

2.1. On April 7, 2022, the online registration certificate (RC) of the bus was downloaded, which indicated Nitesh Kumar (the petitioner) as the original owner. This document revealed different chassis and engine numbers compared to those noted during the initial inspection. The registration was valid from April 1, 2017, to June 6, 2022, and the vehicle was listed as white in color. Upon cross-referencing the registration documents of the engine and chassis numbers of the recovered bus, it was discovered that they were registered under the name of Megh Raj Saini, son of Hari Singh Saini. The address was 30/G-4, Darshan Vihar, Nathupura, Burari, Delhi. The registration number of the bus was DL-1PC-4603, with validity from April 7, 2012, to March 21, 2020. It was alleged that both the petitioner and Megh Raj Saini had committed forgery to avoid paying road taxes. The bus was impounded on the premises of the Detective Staff, and both RCs were taken into custody.

2.2. An FIR was registered. During investigation, petitioner was arrested and is in custody since 19.05.2023.

3. Learned counsel for petitioner submits that petitioner had employed a driver who was in possession of the bus and was responsible for plying the same and petitioner was not aware about factual position. Petitioner has thus been falsely implicated in this case. Petitioner was neither present at the time of occurrence nor is attributed any role in any cognizable offence. He submits that petitioner has nothing to do with the alleged offence.

3.1. 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.

3.2. Learned counsel for the petitioner submits that co-accused of the petitioner, namely, Brij Lal has already been granted concession of bail by learned Court below.

4. On the other hand, learned State counsel opposes the bail petition. He submits that petitioner has committed a serious offence. If enlarged on bail in present case, there is every likelihood that petitioner may tamper with the evidence and/ or

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influence the witnesses. He also submits that petitioner is involved in one more case. He however, does not controvert the factual position regarding grant of concession of bail to the co-accused.

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

6. Challan has been already filed against petitioner. Petitioner is thus not required for any further custodial interrogation.

7. On a Court query, learned State counsel, under instructions from ASI Ram Niwas, informs that out of 15 witnesses, none has been examined so far since charges are yet to be framed. Allegations against petitioner are a matter of trial at this stage. 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 been languishing in jail for the past more than 3 months, being behind bars since 19.05.2023.

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. 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.

9. It is stated that petitioner is a 30-year old family person having wife and one minor child to look after, 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 also stated to have been granted concession of bail, as aforesaid.

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

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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 31, 2023

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No