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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-42783-2023 (O&M)

Date of decision: September 05, 2023

Deepak

....Petitioner

versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Bisham Kumar Majoka, Advocate for petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

ARUN MONGA, J. (ORAL)

After being declined bail by the trial Court, this is third foray of petitioner before this Court seeking his release as an undertrial in a case bearing FIR No.37 dated 27.02.2021, registered under Sections 323, 324, 307, 379B, 506 read with Section 34 of the Indian Penal Code, 1860 (for short 'IPC'), at Police Station, Tigaon, Faridabad, District Faridabad. First petition was dismissed as withdrawn vide order dated 05.10.2021 (Annexure P-4) passed in CRM-M-33296-2021 and second petition was dismissed vide order dated 05.01.2023 (Annexure P-5) passed in CRM-M-28825-2022.

2. Per prosecution version, younger son (Rahul) of the complainant, namely Mange Ram used to drive auto-rickshaw and he had also hired Rahul to drive the said auto-rickshaw. On 26.02.2021, at about 6:00 pm., Rahul was on way to Ballabgarh for getting customers. When he stopped at Tigaon near Patwar House, Housing Board Colony, Deepak (petitioner), Sumer and Sanjay came and demanded money. Upon hearing noise, public gathered there. Rahul called the complainant, who also reached the spot and saw that all the accused forcibly took Rs.1,200/-. When Rahul resisted, petitioner and Sumer caught hold of him. One Sanjay started giving knife blows and also threatened to kill before leaving. An FIR was registered. During investigation, petitioner was arrested and is in custody since 25.03.2021.

3. Learned counsel for petitioner submits that petitioner has not committed any offence as alleged. No specific injury has been attributed to the petitioner. He contends that co-accused, namely, Sanjay, the principal culprit, if at all, has stated in his

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statement before the investigating agency that petitioner was not even present at the spot of occurrence. Petitioner has thus been falsely implicated in this case.

3.1. Learned counsel contends that 07 witnesses have been examined out of total 22. He points out that none of them is an eye-witness and the eye witness, namely Rahul son of Suresh who was initially named as a prosecution witness has been dropped in course of trial.

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 opposes the bail petition. He submits that petitioner has committed a serious offence. He further contends that petitioner along with his co-accused caused injuries to the son of the complainant. If enlarged on bail in present case, there is every likelihood that petitioner may tamper with the evidence and/ or influence the witnesses.

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

6. Challan has already been filed and charges were framed on 01.09.2021. Investigation is complete and petitioner is thus not required for any further custodial interrogation.

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, on instructions from ASI Samay, submits that out of total 22 witnesses, 07 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 and 05 months, being behind bars since 25.03.2021.

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.

9. It is stated that petitioner is a 25-year old young person and his father has already expired. He has added responsibility of his old age widowed mother who is totally dependent on him and is 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.

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 05, 2023

Whether speaking/reasoned: Yes/No

MAHAVIR SINGH
2023.09.06 09:50
I attest to the accuracy and
authenticity of this order/ judgment