

208

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-47014-2023 (O&M)

Date of decision: 22.09.2023

Yogesh @ Yashu

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:** Mr. Ranvijay Singh, Advocate
for the 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 case bearing FIR No.75 dated 05.07.2022, registered under Sections 148, 307, 323 read with Section 149 of Indian Penal Code (Challan filed under Sections 307, 323, 326, 326-A, 201, 120-B, 148 read with Section 149 of IPC) at Police Station, City Kanina, Mahendergarh, District Mahendergarh.

2. Per prosecution version, complainant Ankit stated that on 01.07.2022 he and his friend Deepak @ Sonu had consumed liquor and were sitting in open on the ground when four boys descended on the scene on two motor cycles. They were wielding two bottles of petrol. One of them poured petrol on Ankit and another set him ablaze. The assailants decamped after that. One boy out of four was identified as co-accused, namely, Manish @ Gola, while remaining assailants could be identified by Deepak. During investigation, statement of eyewitness Deepak was recorded by the police under Section 161 Cr.P.C. wherein he alleged that co-accused Hitesh alias Happy had opened the lid of the bottle containing petrol and poured the same on the injured while petitioner Yashu alias Yogesh set him on fire. Petitioner was arrested on 07.07.2022 and has been in custody ever since.

3. Learned counsel for petitioner submits that though petitioner was named in the FIR unlike the co-accused, who were not named but there is no role either covert or overt attributed to the petitioner for committing any offence requiring his implication.

Further argues that out of 11 accused, 4 have been granted bail by learned trial court vide orders dated 29.03.2023, 31.03.2023, 10.04.2023 (Annexure P-3 Colly) while other 6 co-accused of the petitioner, have already been accorded concession of regular bail by this court vide order dated 22.03.2023 (Annexure P-4), vide order dated 09.08.2023 (Annexure P-5) and vide order dated 15.09.2023. Petitioner's case is at par with his co-accused who are on bail and yet he continues to be in jail, he contends. He also argues that on the ground of parity alone, petitioner is entitled to be released on bail during pendency of trial.

3.1 He further submits that nothing is to be recovered from the petitioner and he is not required for further custodial interrogation. He submits that there is an inordinate and unexplained delay in registration the FIR as the occurrence described by the complainant was of 01.07.2022, whereas the FIR was registered on 05.07.2022.

4. On the other hand, learned State counsel, opposes the bail petition. He submits that petitioner has committed a serious offence. In case, petitioner is granted concession of bail, there are chances of his fleeing from justice. He further submits that there is one criminal complaint pending against him in which he is not on bail.

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

6. On a Court query, under instructions from SI Rajender Kumar, learned State counsel submits that challan was presented on 29.09.2022 and charges were framed on 01.12.2022. Investigation is thus complete *qua* petitioner, he is not required for custodial interrogation. There are 18 prosecution witnesses out of them, only one has been examined till date. Conclusion of the trial is likely to take quite sometime.

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. Whereas petitioner has already been languishing in jail for 01 year and 02 months in preventive custody, he being behind bars since 07.07.2022.

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. Petitioner is stated to be 19-year old young boy agriculturist by profession and only breadwinner of his family, has added responsibility to look after his parents, who are living in sheer penury in his absence. He is on cross-roads of his career and has already lost his livelihood due to prolonged incarceration. Being family man and having fixed abode, it is unlikely that petitioner poses any flight risk and/or will flee from the trial proceedings.

10. Co-accused of petitioner have been accorded 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 satisfaction of Ld. 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. In case, petitioner is found to be involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of his bail in the instant case.

14. 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.

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

(ARUN MONGA)
JUDGE

22.09.2023
vandana

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