

CRM-M-44697-2023 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-44697-2023 (O&M)

Date of decision: September 14, 2023

Naresh @ Bittu

....Petitioner

versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Chander Pal Tiwana, 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.54 dated 22.02.2023, registered under Sections 406, 420, 506, 120-B, 201, 467, 468, 471 of the Indian Penal Code, 1860 (for short 'IPC'), at Police Station, Sadar Kaithal, District Kaithal.

2. Per prosecution version, complainant sold two trolleys to an unknown person for sum of Rs.2,40,000/- on 15.01.2023. Buyer gave a cheque assuring that same would be honoured. However, on its presentation the cheque was dishonored. Cheque though was signed by one Arun, but the corresponding bank account was in the name of some other person. When complainant confronted the unknown man for payment of money, he threatened to kill him. An FIR was registered. During investigation, petitioner was arrested on 11.04.2023 and is in custody since then. On the disclosure statement of petitioner, co-accused Satbir alias Lila was also arrested on 13.04.2023.

3. Learned counsel for petitioner submits that petitioner has no concern with the alleged offence. He neither induced the complainant nor had threatened him. He also submits that petitioner did not even handover the alleged cheque to the complainant.

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 further contends that co-accused of the petitioner, namely, Arun, who is the prime accused, if at all, has been granted concession of interim bail by a

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co-ordinate Bench of this Court vide order dated 21.06.2023 (Annexure P-3) passed in CRM-M-30954-2023, which was made absolute vide order dated 06.09.2023 passed by this Court. The other co-accused, namely Satbir @ Lila has also been granted concession of bail vide order dated 10.08.2023 (Annexure P-4) passed in CRM-M-38018-2023 by this Court. Case of the petitioner is on better footing and still he continues to languish in jail.

4. On the other hand, learned State counsel opposes the petition and submits that petitioner has committed a serious offence. He submits that there are 26 more cases against the petitioner, out of them, in 15 cases, he is on bail, in 2 convicted and in 3 he has been acquitted. If released on bail, he might tamper with evidence or influence/intimate the witnesses and also flee from trial proceedings.

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

6. On a Court query, learned State counsel, on instructions from HC Rajiv Kumar submits that challan has already been filed and charges were also framed on 17.08.2023. Investigation *qua* petitioner is complete, he is thus not required for custodial interrogation. 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. Out of total 22 witnesses, none has 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 05 months, being behind bars since 11.04.2023.

7. 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.

8. It is stated that petitioner 35-year old married person having two minor children and one unmarried sister to look after who are living in sheer penury in his absence. Petitioner is stated to be the sole bread-earner of the family. Being a family man and having a fixed abode, it is unlikely that petitioner poses any flight risk and/or will

flee from trial proceedings.

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9. Co-accused of petitioner have been granted the concession of interim bail/ bail.
10. 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.
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.
12. 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.
13. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

September 14, 2023
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No