

CRM-40808-2023 IN/AND  
CRM-M-46913-2023 (O&M)

105

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

**CRM-40808-2023 IN/AND  
CRM-M-46913-2023 (O&M)  
Date of decision: September 26, 2023**

Maradu

....Petitioner

versus

State of Punjab

....Respondent

**CORAM: HON'BLE MR. JUSTICE ARUN MONGA**

**Present:-** None for petitioner.

Mr. Paramjit Singh, ASI and  
Mr. Harinder Singh, Warder.

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**ARUN MONGA, J. (ORAL)**

**CRM-40808-2023**

Due to a call given by the Bar Council of Punjab and Haryana, the Executive Committee of the Bar Association has unanimously decided not to work today i.e., on 26.09.2023, in solidarity with the District Bar Association, Sri Muktsar Sahib on account of one of the Bar members, who is alleged to have been falsely implicated by the police officials at Muktsar.

For the reasons stated in application, same is allowed. Next date of hearing fixed in the main case is preponed and the same is taken on Board today itself. Next date i.e., 16.10.2023, stands cancelled.

**Main case (O&M)**

Custody certificate dated 26.09.2023 and medical status report dated 26.09.2023 has been tendered in course of hearing by Mr. Harinder Singh, Warder and Mr. Paramjit Singh, ASI, which have been taken on record.

2. After being declined bail by the trial Court, petitioner before this Court seeks his release as an undertrial in a case bearing FIR No.23 dated 16.03.2011,

**CRM-40808-2023 IN/AND  
CRM-M-46913-2023 (O&M)**

registered under Section 25 of the Arms Act, 1959 (for short 'Arms Act'), at Police Station, Sadar S.B.S. Nagar, District S.B.S. Nagar (Nawan Shehar).

3. According to the prosecution's account, on March 16, 2011, ASI Phool Rai along with police party were on routine patrol looking out for suspicious persons. A person was spotted, who revealed his name as Maradu (petitioner). He was searched and from his left waist line, one country made revolver point .38 bore was recovered. Petitioner was arrested on the spot. During trial, he was released on bail on April 13, 2011. Subsequently, petitioner was declared as a proclaimed offender October 28, 2016, and was re-arrested on July 20, 2023.

4. Pleaded case in the petition is that during trial, petitioner was granted concession of bail on 13.04.2011. After almost 05 years of trial, he was informed by the clerk of his counsel engaged in the Court below that petitioner has been acquitted. Petitioner thus stopped appearing in the Court. Being illiterate, he did not know that there was no judgment of acquittal or the trial is still pending. On 28.10.2016, he was declared as proclaimed offender. Petitioner was thereafter, re-arrested on 20.07.2023.

4.1. On merits, It is pleaded that petitioner has not committed any alleged offence as no alleged weapon was recovered from the petitioner. Nothing is to be recovered now from the petitioner and he is not required for further custodial interrogation. Petitioner is not involved in any other case.

5. On the other hand, ASI Paramjit Singh appears and on court query admits that petitioner is not involved in any other case. But he submits offence is serious, if released on bail, there is every likelihood of petitioner fleeing from trial proceedings and/or tampering with evidence and influencing witnesses.

6. File perused.

7. FIR is dated 16.03.2011 and at that time, the maximum punishment prescribed under Section 25 of the Arms Act was for 03 years. Per custody certificate, petitioner initially remained in custody from 17.03.2011 to 13.04.2011 for a period of 27 days and was thereafter, granted bail on 13.04.2011. Petitioner faced trial till the year

**CRM-40808-2023 IN/AND  
CRM-M-46913-2023 (O&M)**

2016 i.e., for almost 05 years and he did not misuse the concession of bail during that period. It was only due to mis-communication between him and office of his counsel that the petitioner stopped appearing in the Court below and declared as an PO. Petitioner was again arrested on 20.07.2023.

7.1. Perusal of report dated 26.09.2023 (Annexure R-1) of Medical Officer, Central Jail, tendered in course of hearing today by ASI Paramjit Singh, reveals that petitioner is in need of further medical treatment and for the purpose has been referred to Civil Hospital, Tarn Taran.

8. On query, ASI Paramjit Singh informs that charges were framed on 13.10.2011. Petitioner is not required for custodial interrogation. Out of total 09 witnesses, 06 have already been examined. 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. 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 03 months, being behind bars from 16.03.2011 to 13.04.2011 and since 20.07.2023.

9. Petitioner is being kept in preventive custody merely on an unfounded suspicion that if he is let out on bail, he may flee from trial proceedings as before.

10. It is stated that petitioner having a fixed abode and clean antecedents, it is unlikely that petitioner poses any flight risk and/or will flee from trial proceedings. His earlier absence from trial was due to miscommunication as already explained here in above.

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 on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where his case is

CRM-40808-2023 IN/AND  
CRM-M-46913-2023 (O&M)

being tried and in case he/she is not available, before learned Duty Magistrate, 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

September 26, 2023  
mahavir

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