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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRM-M-45110 OF 2023****DATE OF DECISION : 03.10.2023****Gagandeep Singh @ Perra @ Peda @ Peera****...Petitioner****Versus****State of Punjab****...Respondent****CORAM : HON'BLE MR. JUSTICE ARUN MONGA**

Present : Mr. S. K. Bokolia, Advocate,
For the petitioner.

Mr. Mohit Thakur, AAG, Punjab.

ARUN MONGA, J. (ORAL)

After being denied bail by the learned trial Court, the petitioner before this Court seeks his release as an undertrial in a case bearing FIR No. 94, dated 07.04.2021, registered under Section 25 of the Arms Act (referred to as the 'Act') at Police Station City Faridkot, District Faridkot.

2. According to the prosecution case, one FIR No. 44, dated 18.02.2021, under Sections 302, 334, 120-B of the Indian Penal Code, read with Section 25 of the Arms Act, was registered at Police Station Faridkot against some unknown persons. During the investigation of the above-mentioned FIR, the petitioner made a disclosure statement and recovered one country-made pistol of .315 bore along with two live rounds was recovered wrapped in a polythene bag under the soil of a Kikkar tree. Another FIR no.94 *supra* was registered in this case. The petitioner was arrested on 07.04.2021

3. Learned counsel for the petitioner contends that the petitioner was falsely implicated in the case. He further argues that, as per the prosecution version, the petitioner, while in custody, himself confessed to using the said weapon in the alleged crime and recovering it, and thus, the registration of

another FIR was not required. No independent witness was present at the time of the recovery of the said weapon.

3.1. Learned counsel further contends that the investigation is complete, and the challan has been presented. He also submits that nothing else needs to be recovered from the petitioner, and he is not required for further custodial interrogation. There is no likelihood of the petitioner tampering with evidence or influencing prosecution witnesses.

4. On the other hand, the learned State counsel opposes the bail petition, stating that if the petitioner is granted bail, there are chances of him fleeing.

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

6. The learned State counsel, on instructions from ASI Shivinder Singh, submits that the challan was presented on 23.12.2022. The investigation concerning the petitioner is complete, and thus, he is not required for custodial interrogation. Allegations against the petitioner are a matter of trial. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Out of 09 prosecution witnesses, 03 have been examined so far. The conclusion of the trial is likely to take quite some time as it is proceeding at a snail's pace. Meanwhile, the petitioner has already been in jail for about two and a half years, being in custody since 07.04.2021.

7. The 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.

8. There is no probability of tampering with evidence as the same has already been seized by the investigating agency. Regarding witnesses, they are all official.

9. The petitioner is stated to be a 29-year-old family person. He is the sole breadwinner, and his family members are living in sheer penury in his absence. Being a family person with a fixed abode, it is unlikely that he is a flight risk or will flee from the trial proceedings.

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 by keeping the petitioner in further preventive custody.

11. Accordingly, the petitioner is ordered to be released on bail, provided he is not required in any other case, on his furnishing bail bonds and surety bonds to the satisfaction of the learned trial Court where his case is being tried, or before the learned Duty Judge, as the case may be, if the former is not available.

12. In case the petitioner is found to be involved or gets involved in any offense while on bail, the prosecution shall be at liberty to seek the cancellation of his bail in the instant case.

13. 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.

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

OCTOBER 03, 2023
Shalini

(ARUN MONGA)
JUDGE

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