

CRM-M-46033-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

231

CRM-M-46033-2023

Date of decision: 19.09.2023

Shahnawaz

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Parvinder Moar, Advocate for the petitioner.

Mr. Karan Garg AAG Haryana.

ARUN MONGA, J. (Oral)

After being declined bail by the trial Court, petitioner before this Court seeks his release as undertrial in a case bearing FIR No.234 dated 06.07.2023, registered under Sections 392 read with Section 34 of the 22 of the Indian Penal Code, 1860 (for short 'IPC') at Police Station, Sector-50, Gurugram, District Gurugarm.

2. Per FIR, complainant-Deepak driver by profession, stated that he drives Ola-Uber Auto on rent. On the day of occurrence, at around 01:00 am, he was returning from DLF Phase-III, U-Block, Gurugram. Petitioner along with two other accused stopped him for hiring him to go to Sector-46, HUDA Market. On reaching near Sector 46, HUDA Market, they asked the complainant to give his mobile for online transfer of fare i.e. Rs.250/-. After opening the lock, complainant handed-over his mobile to them but petitioner along with other accused fled away along with mobile phone. An FIR was registered. In the course of investigation, petitioner was arrested on 06.07.2023 and is in custody ever since.

3. At the outset, learned counsel for the petitioner submits that complainant has not supported the prosecution version as he did not identify the

petitioner as one who was involved in the incident, which led to registration of FIR.

3.1. On merits, he contends that FIR was registered against unknown persons and petitioner has nothing to do with the alleged offence. Moreover alleged recovery of mobile was effected from accused Sharafat Ali and, thus, petitioner has been falsely implicated in this case.

3.2 Learned counsel further contends that petitioner is innocent and has not committed any offence. He further submits that version of FIR is concocted and petitioner has no concern with the alleged offence.

3.3. He further argues that petitioner is not required for custodial interrogation. Yet, petitioner is in custody since 06.07.2023. Challan has already been presented before the competent Court. Conclusion of trial will take long time. Thus, no useful purpose would be served by keeping him behind bars. No other case is pending against him.

4. Per contra, learned State counsel, opposes the bail petition and contends that petitioner has committed serious offence and has played an active role in the incident. If enlarged on bail, there is everylikelihood that petitioner will commit similar offence and/or will flee from trial.

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 ASI Gajraj, submits that submits that challan was presented on 27.07.2023 and charges are yet to be framed. Investigation *qua* petitioner is complete, he is thus not required for custodial interrogation. Allegations against petitioner are a matter of trial at this stage. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Out of total 07 witnesses, none has been examined till date. Trial is proceeding only at a snail's pace. Whereas, petitioner has already

been languishing in jail for the past more than 02 months in preventive custody, being behind bars since 06.07.2023.

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.

8. It is stated that petitioner is 22 yearsunmarried having added responsibilities of his old aged parents, who all are living in sheer penury in his absence. His continued incarceration may jeopardize his career prospects and he may also rendered jobless forever.Being family man and having fixed abode, it is unlikely that they pose any flight risk and/or will flee from trial proceedings.

9. 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.

10. 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 cases is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.

11. 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.

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

(ARUN MONGA)
JUDGE

September 19, 2023
Ajay

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