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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-46709-2023 (O&M)

Date of decision: 10.10.2023

Satbir @ Bittu @ Satbir Singh

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Amit Choudhary, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

ARUN MONGA, J. (ORAL)

Following the denial of bail by learned trial court, the petitioner is now before this Court seeking his release as an undertrial in a case with FIR No.168 dated 02.09.2020, registered under Sections 120-B, 302, 323, 440, 459, 395, 212, 201, 325, 148 read with Section 149 of the Indian Penal Code, 1860 (in short 'IPC') and Section 25 of Arms Act, 1959 at Bhattu Kalan, Police Station, in Fatehabad.

2. On January 1, 2020, the complainant, Dinesh Kumar, along with Sandeep, Anil, and Jasbir, were present in the office situated in a liquor vend. At around 8:00 to 8:15 p.m., three vehicles stopped in front of the office, and Ramesh, Leelu Ram, Mewa Singh, Sahil, along with 10 to 12 unknown individuals, got out of these vehicles. Co-accused Sahil was armed with a pistol, while the others were carrying iron rods. Co-accused Ramesh then instructed them to exit the office. Subsequently, Ramesh, Leelu, Mewa Singh, and Sahil entered the office, with Sahil declaring that they were sent by Jaiveer for revenge. Ramesh fired his pistol toward Sandeep, while Leelu, Mewa Singh, and Sahil also fired from their respective pistols. Ramesh's shot hit Sandeep in the stomach, Leelu's shot hit Sandeep's left arm, Mewa Singh's shot landed on Sandeep's right foot, and Sahil's shot hit the office wall. The accompanying 10-12 unidentified individuals, armed with iron rods, also attacked, causing injuries to Anil's head and other parts of his body. They ransacked the entire

office and stole Rs. 2.5 lakh, which was in the office. Sandeep succumbed to the gunshot injuries when taken to the hospital. Injured Anil underwent a medico-legal examination. During the investigation, the petitioner was arrested on August 8, 2021, and has been in custody since then.

3. The learned counsel for the petitioner argues that the petitioner was not named in the FIR and was falsely implicated later in this case. The petitioner's name only appeared in the confessional disclosure statement of co-accused Suresh @ Fauji, and apart from that, there is no incriminating evidence against the petitioner provided by the prosecution. The counsel further contends that the confessional disclosure statement of the co-accused should not be admissible as evidence.

3.1. The petitioner's counsel also relies on the testimonies of injured eye-witnesses and the complainant (both material witnesses) and asserts that none of them have attributed any role to the petitioner in the incident in question. Additionally, the counsel submits that similarly situated other co-accused, namely, Rakesh @ Raka, Vikram @ Pawan Kumar, Virender @ Binder, Himmat Singh, Sudhir, have already been granted bail by a coordinate Bench of this Court through orders dated November 10, 2022, February 6, 2023, May 29, 2023, February 6, 2023, and May 24, 2023 (Annexures P-3 to P-11).

3.2. The counsel further contends that the petitioner is not required for further custodial interrogation and there is no likelihood of the petitioner tampering with evidence or influencing prosecution witnesses. The petitioner maintains his innocence and asserts that he has been falsely implicated in this case.

4. On the other hand, learned State counsel vehemently opposes the petition, expressing concerns about the possibility of the petitioner fleeing from trial proceedings if granted bail. He further submits that the allegations against the petitioner are serious, He would further argue that three other cases are pending against him but fairly concedes that in one case, he has been acquitted and in two other cases, he is on bail.

5. I have heard the opposing arguments of the learned counsels for the parties and have reviewed the case file.

6. In response to a query from the Court, as instructed by SI Rameshwar Dayal, learned State counsel informs that charges were framed on June 04, 2023 after the challan was filed. Investigation concerning the petitioner is complete, and he is not required for custodial interrogation. At this stage, the allegations against the petitioner are subject to trial. Of the fifty prosecution witnesses, only four have been examined so far, and the case is scheduled for recording remaining prosecution evidence today only i.e. on October 10, 2023. The trial's progress has been slow, and it is expected to take a considerable amount of time. Bail serves the purpose of allowing an accused to remain free until their guilt or innocence is determined. In contrast, the petitioner has been in detention since August 08, 2021, for more than 02 years and 01 month.

7. The petitioner's continued preventive custody is based on an unsubstantiated suspicion that he might tamper with evidence or influence witnesses.

8. The petitioner is stated to be 30-year-old agriculturist and a family man. With a family to support and a fixed abode, it is unlikely that he poses a flight risk or will flee from trial proceedings.

9. Co-accused have already been granted concession of bail by a coordinate Bench of this Court.

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 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.

12. In case, petitioner is found 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.

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 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

10.10.2023
vandana

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