

CRM-M-46007-2023 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: September 20, 2023

Ravi

....Petitioner

versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. V.B. Godara, 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.236 dated 18.07.2020, registered under Sections 398, 401 of the Indian Penal Code, 1860 (for short 'IPC') and Section 25 of the Arms Act, 1959 (for short 'Arms Act'), at Police Station, Bhuna, District Fatehabad.

2. According to the prosecution's account, on July 18, 2020, acting on confidential information, SI Mahender Singh and other police officials arrived near T-Point village Khajuri. There, they encountered two young boys standing on the right side of the road. One of the boys signaled with a torch to SI Mahender Singh's vehicle, and when the police vehicle stopped, both young boys were found holding pistols. They surrounded the police vehicle and attempted to rob the officers. The young boy with the torch pointed his pistol at the driver and demanded all their belongings, threatening harm if they didn't comply. SI Mahender Singh turned on the vehicle's lights, revealing the situation. Realizing their mistake, both individuals tried to flee but were apprehended by the police at the scene. The young boy with the torch identified himself as Sanjay @ Sanju, while the other boy revealed his name as Ravi (the current petitioner).

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2.1. Co-accused Sanjay @ Sanju was found in possession of a .315 bore pistol and five live cartridges in the right pocket of his pants. The recovered country-made pistol, along with the torch, was sealed and seized as per a separate memo.

2.2. The petitioner was also found with a .12 bore country-made pistol and a live cartridge, which were likewise sealed and seized by the police. An FIR was registered in connection with this incident, and both individuals were arrested. The petitioner has been in custody since that time.

3. Learned counsel for petitioner would contend that petitioner has no concern with the allegations leveled against him. He further submits that per FIR in question, no offence whatsoever is made out against the petitioner, and the same has been registered only on the basis of a fabricated story. No independent witness was joined at the time of alleged incident.

3.1. Learned counsel further contends that nothing is to be recovered from the petitioner and he is not required for further custodial interrogation. He fairly concedes that petitioner is involved in two more cases under Section 307 IPC and Section 25 of Arms Act.

4. On the other hand, learned State counsel, opposes the bail petition. He submits that petitioner has committed a serious offence. If released on bail, there is likelihood of petitioner fleeing from trial proceedings and/or tampering with evidence and influencing witnesses.

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, under instructions from ASI Rajpal Singh, submits that challan has already been presented and charges were framed on 14.01.2021. Investigation is thus complete *qua* petitioner, he is 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 19 witnesses, 06 have already been examined. Conclusion of trial is still likely to take long time as it is proceeding at a snail pace. Whereas, petitioner has already

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been languishing in jail for the past more than 02 years and 02 months, being behind bars since 18.07.2020.

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 is 22-year old young boy and is on the cross-roads of his career. He has added responsibility of looking after his widowed mother, who is living in sheer penury in his absence. Having a fixed abode, it is unlikely that petitioner poses 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 case 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 20, 2023
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No