

CRM-M-47193-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-47193-2023

Date of decision: 25.09.2023

Ravi Kumar

....Petitioner

V/s

State of U.T. Chandigarh

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Manjot Singh Gujral, Advocate for the petitioner.

Mr. Sarvjit Singh Khurana, Addl. P.P. U.T. Chandigarh.

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.112 dated 04.07.2023, registered under Section 365 read with Section 34 of the Indian Penal Code, 1860 (for short 'IPC') and Section 25 of the Arms Act, 1959 at Police Station Sector 31, Chandigarh.

2. Per prosecution, complainant Sonustated that on 04.07.2023 at about 07:46 p.m., he along with his friend Abhishek was going home from Sabzi Mandi riding his motorcycle, whereas his friend Abhishek was a pillion. When they reached near Ravidas Mandir, petitioner along with his three friends namely, Yash, Mohit and Parmeet alighted from a car and attacked them with a sharp weapon. However, complainant though managed to flee but his friend, namely, Abhishek was abducted by the aforesaid accused. FIR was registered. During investigation, petitioner was arrested on 05.07.2023. He admitted his involvement and that of his co-accused in the alleged crime.

3. Learned counsel for the petitioner contends that no role has been attributed to the petitioner as he has not done any overt or covert act. It being a case of no injury, the allegations of abducting/kidnapping are doubtful and the

ingredients of Section 365 IPC are not made out against petitioner. The story of prosecution is falsified from the fact that petitioner and victim are childhood friends and as such, there is no case of abduction made out.

3.1. Learned counsel further urges that nothing is to be recovered from the petitioner and, thus, no useful purpose would be served by keeping him behind bars. Investigation is complete and petitioner is not required for custodial interrogation. Petitioner is not involved in any other case.

3.2 He further urges that petitioner is the only male member in the family to look after his old ailing parents. No other case is pending against him.

4. On the other hand, learned State counsel opposes the petition and submits that petitioner has committed a serious offence. If enlarged on bail, there is every likelihood that petitioner will commit similar offence and/or will flee from trial, and he might tamper with evidence or influence/ intimidate the witnesses. He, however, admits that petitioner is not involved in any other case.

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 Parvinder Singh, submits that challan was presented on 02.09.2023. Investigation is thus complete *qua* petitioner, he is not required for custodial interrogation. Allegations against petitioner is matter of trial. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Commencement/conclusion of the trial is likely to take quite some time as it is proceeding at a snail pace. Whereas petitioner has already been languishing in jail for more than 02½ months, being behind bars since 05.07.2023.

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. There is no probability of tampering with evidence as the same has already been seized by the investigating agency.

8. Petitioner is stated to be a 24-year old and has lost his job. His continued incarceration will permanently ruin his chances to earn livelihood and he may be rendered jobless forever. Having fixed abode and clean antecedents, it is unlikely that he 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 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 25, 2023
Ajay

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