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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-48118-2023 (O&M)

Date of decision: October 09, 2023

Parshotam @ Uttam

....Petitioner

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Amit Kumar, Advocate for petitioner.

Mr. Mohit Thakur, AAG Punjab.

ARUN MONGA, J. (ORAL)

Following the denial of bail by the learned trial Court, the petitioner is now before this Court seeking his release as an undertrial in a case FIR No.105 dated 17.08.2022, registered under Sections 302, 323, 427, 212, 201, 148 read with Section 149 of IPC, at the Balongi, Police Station in S.A.S. Nagar (Punjab).

2. Per prosecution's case, Dev Raj Sharma stated that his younger son, Bunty Sharma, was in the finance business. On August 16, 2022, at around 09:30 p.m., his son received a call from Satnam Singh, also known as Nikku, on his mobile phone. During the call, Satnam Singh informed him that Ajay Patel, Parvesh Bawa, and 10-12 other unidentified individuals had assaulted him near Rivel Kanal. They urged Bunty to come to the location. In response to the call, Bunty went to the specified place but never returned. Subsequently, Dev Raj Sharma himself went to Ganda Nala, where he discovered his son lying on the ground and being beaten up by the accused individuals. Upon raising an alarm, a crowd gathered at the scene. With the assistance of his friends, he managed to transport his injured son to Civil Hospital, Phase-6, Mohali. Due to the severity of his injuries, Bunty was later referred to PGIMER, Chandigarh. Unfortunately, the doctors at PGIMER declared him dead.

Postmortem of the body was conducted, and an FIR was registered, initiating the

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investigation. Statements of the witnesses were recorded by the police. During the investigation, the petitioner's name surfaced in the disclosure statement of co-accused Rohit. On the basis of this information, the petitioner was made an accused and was arrested on 22.11.2022 (although the petitioner claims to have been in custody since 14.11.2022).

3. At the outset, learned counsel for the petitioner points out that a co-accused of the petitioner, namely, Vikas Vidhlan, has already been granted bail, as per the order dated 11.05.2023 (Annexure P-3) passed in CRM-M-3070-2023 by a co-ordinate Bench of this Court. He further points out that another co-accused, namely, Suresh Kumar, has been granted bail, as per the order dated 25.08.2023 (Annexure P-4) passed in CRM-M-40763-2023 by this Court.

3.1. Learned counsel contends that the petitioner has been implicated based on the disclosure statement of co-accused Rohit, which is not admissible under law. He further contends that the petitioner was neither present at the place of occurrence nor named in the FIR and was later arrested on false allegations from his house. The petitioner has thus been falsely implicated in this case, with nothing to be recovered from him. The petitioner is not involved in any other case.

4. On the contrary, learned State counsel strenuously opposes the petition, expressing concerns about the possibility of the petitioner fleeing from trial proceedings if granted bail. He submits that the allegations against the petitioner are serious. He though admits that there is no other case pending against the petitioner.

5. I have heard the rival arguments and reviewed the case file.

6. In response to a query from the Court, under instructions from ASI Sulakhan Singh, learned State counsel informs that the challan has been filed and charges were framed on 16.08.2023. Thus, the investigation regarding the petitioner is complete, and he is not required for custodial interrogation. Of twenty three witnesses, none has already been examined so far. However, he submits that there is no other case against the petitioner. On a Court query as to whether gravity of role attributed to

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the petitioner herein is any different or on higher footing than the ones granted bail vide orders *ibid* (Annexures P-3 and P-4), learned State counsel, on instructions, states that petitioner's case is, in terms of role attributed, stands on similar footing.

7. At this stage, the allegations against the petitioner are subject to trial. The trial's progress has been slow, and it is anticipated 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 November 22, 2022, for more than 11 months.

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

9. Co-accused of the petitioner have already been granted concession of bail, as aforesaid.

10. The petitioner is stated to be a 24-year-old unmarried person having added responsibilities of his parents. He has already lost his livelihood due to prolonged incarceration. Having a family to look after, a fixed abode, and clean record, it is unlikely that he poses any flight risk and/or will flee from trial proceedings.

11. Considering the overall scenario, 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.

12. Accordingly, the petitioner is ordered to be released on bail upon his furnishing bail bonds and surety bonds to the satisfaction of the learned trial Court, where his case is being tried, and in case he/she is not available, before the learned Duty Judge, as the case may be.

13. In case the petitioner is found 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.

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14. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on the merits of the case, as they are for the limited purpose of the bail hearing alone, and the learned trial Court shall proceed without being influenced by this order.
15. Pending applications, if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

October 09, 2023
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No