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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-51020-2022 (O&M)

Date of decision: August 07, 2023

Tej Kumar @ Monu

....Petitioner

versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Sudhir Rana, Advocate for the 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 undertrial in a case bearing FIR No.233 dated 28.06.2019, registered under Sections 302, 324 read with Section 34 of the IPC, at Police Station, City Rewari, District Rewari.

2. Per prosecution version, on 28.06.2019, complainant Chandan got recorded his statement to the police that on 27.06.2019 at 8:00 p.m., when he and his brother were standing at the corner of street in Indira Colony, father of Deepika (wife of petitioner's brother), namely, Goverdhan @ Babli, her brother Anup and her maternal uncle (Mama) Mony and Anup, friend of Mohit had attacked Jitender @ Bunty (since deceased). Anup stabbed Jitender @ Bunty on stomach and neck. Father of Deepika, namely, Goverdhan @ Babli and Monu (petitioner) caught hold the accused from behind and Mohit slapped the deceased. On basis of above-said statement, FIR was registered. Petitioner is in custody since 28.06.2019.

3. Learned counsel for petitioner contends that petitioner has been falsely implicated in this case. Injuries suffered by the deceased are attributed to co-accused, namely Anup. Alleged recovery has also been effected from co-accused-Anup. Petitioner was not even present at the alleged place of occurrence. Also contends that co-accused, namely, Mohit @ Miya, who was declared juvenile, has since been acquitted of the charge against him.

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4. Per contra, learned State counsel on instructions from ASI Harish Kumar, submits that petitioner has committed a serious offence. Petitioner actively participated in the offence. He submits that there are total 18 witnesses, out of them, 12 have been examined and one has given up. Now only 5 are left to be examined. All the witnesses examined have supported the prosecution version. There is likelihood that petitioner may tamper with the evidence and influence the witnesses, in case he is released on bail.
5. I have heard rival contentions of learned counsels for the parties and have gone through the case file.
6. All the examined witnesses of prosecution have supported prosecution version. Possibility of influencing/ intimidating the witnesses, who are yet to depose, cannot be ruled out. In the premise, at this stage, no concession is being accorded to the petitioner.
7. In the premise, instant bail petition is disposed of. Recording of testimonies of remaining prosecution witnesses be expedited by learned trial Court. When the same is done, petitioner is at liberty to file a fresh bail application before learned Court below which shall be decided on its own merits without being influenced by the non-interference of this Court to grant petitioner concession of bail as an undertrial. Needless to say, learned Court below shall proceed with a fresh look at the matter without being influenced with previous rejection of bail order.
8. It is made clear that 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.
9. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

August 07, 2023

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No