

CRM-M-50539-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

238

CRM-M-50539-2023

Date of decision: 11.10.2023

Sukhwinder Singh @ Sukhi

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Anupreet S. Sidhu, Advocate for the petitioner.

Mr. Mohit Thakur, AAG Punjab.

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. 0011 dated 04.03.2023, registered under Sections 341, 323, 324, 148, 149 of the Indian Penal Code, 1860 (for short 'IPC') (Sections 326 IPC added later on) at the Sherpur, Police Station in Sangur.

2. As per the prosecution's version, on March 3, 2023, at around 8:45 p.m., the complainant, Jaspreet Singh, along with his two friends, was on his way back home when they were attacked by assailants who arrived on three to four motorcycles. All the assailants were armed with deadly weapons, namely kirpans and rods. They physically assaulted the complainant and his friends, causing injuries. Upon noticing the approach of a vehicle's headlights, the assailants quickly fled the scene on their respective motorcycles, taking their weapons with them. During the investigation, based on the supplementary statement of the complainant and the disclosure statement of one of the co-accused, Sukhdev Singh alias Soni, the petitioner was also arrested as a suspect on March 8, 2023, and has remained in custody since then.

CRM-M-50539-2023

3. Firstly, the learned counsel for the petitioner argues that the petitioner's role is comparable to that of co-accused Gurbinder Singh, who was granted bail by this Court in an order dated September 1, 2023 (Annexure P-3) in CRM-M-42145-2023. Therefore, based on the principle of parity alone, the petitioner should be granted bail during the trial's pendency.

3.1 Furthermore, the petitioner's counsel asserts that, as per the supplementary statement of the complainant, the petitioner was allegedly armed with an iron rod, but no injuries have been attributed to the petitioner. Moreover, no offense under Section 307 IPC is evident as no doctor has declared any injury as dangerous to life. Additionally, the petitioner's name emerged in the supplementary statement of the complainant and the disclosure statement of a co-accused. Such a belated custodial statement obtained may not be admissible in court. The petitioner's counsel further submits that the entire investigation has already been completed, and the petitioner is not involved in any other case.

3.2 The petitioner has been in custody since March 8, 2023. No recovery has been made from the petitioner, and no specific role has been attributed to them. The petitioner's counsel further argues that the petitioner is not required for further custodial interrogation and that there is no likelihood of the petitioner tampering with evidence or influencing prosecution witnesses. The petitioner is believed to be entirely innocent and falsely implicated in the case.

4. The learned State counsel opposes the petitioner's bail application, expressing concerns about the possibility of the petitioner fleeing from trial proceedings if granted bail. The State counsel does not dispute that the co-accused, Gurbinder Singh, has also been granted bail by this Court. He however, admits that no other case is pending against him.

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

CRM-M-50539-2023

6. In response to a query from the Court, it transpires that the investigation against the petitioner has been completed, and charges were not framed. At this stage, the allegations against the petitioner are subject to trial. Of the eighteen prosecution witnesses, none has been examined thus far. 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 March 08, 2023, for almost 07 months.

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

8. Petitioner is stated to be 20 year old youngman and is on the cross-roads of his career. He has already lost his livelihood due to prolonged incarceration. Having clean antecedents and fixed abode, it is unlikely that he poses any flight risk and/or will flee from trial proceedings.

9. Co-accused Gurbinder Singh has already been granted the concession of bail by this Court. I see no reason as to why petitioner should not be met with similar treatment.

10. Considering the overall scenario, without commenting on merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep petitioner in further preventive custody.

11. 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.

CRM-M-50539-2023

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 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

October 11, 2023
Ajay

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