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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-50528-2023(O&M)

Date of decision: 11.10.2023

Robin

VS

State of Haryana

...Petitioner

...Respondent

CORAM: HON’BLE MR.JUSTICE ARUN MONGA

Present:

Mr. Tarun Sharma, Advocate,
For the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

ARUN MONGA, J. (ORAL)

Aggrieved by being denied bail by the learned trial Court, the petitioner seeks his release as an undertrial in a case bearing FIR No.16 dated 11.01.2022, registered under Section 379-B read with Section 34 of the Indian Penal Code, 1860 (IPC) at Police Station, City Pehowa, District Kurukshetra.

2. FIR was registered on the statement of Parkash Mukhiya alleging therein that he is conductor on vehicle No.HR-3889277, the owner of which is Gurnam Singh and on the intervening night of 10-11.01.2022 he was sleeping in the vehicle when in the night at about 12.30 three young persons came and opened the left side window of the vehicle and allegedly snatched his purse containing 1200-1300 rupees and his mobile phone MI Redme of blue coloured and ran away. Petitioner was arrested on 17.06.2022 and has been in custody ever since.

3. Learned counsel for the petitioner contends petitioner was not named in the FIR. FIR was registered against three unknown persons and no specific role was attributed to the petitioner. During the investigation one accused Gurdial Singh was arrested and he allegedly named the present petitioner as one of the accused and only thereafter he was nominated as an accused.

3.1 He further submits that name of the petitioner was involved in this case when he was lodged in District Jail, Sangrur in another criminal case and petitioner was taken on production warrants and was arrested in this case on 17.06.2022. During investigation Aadhar card of the complainant was shown to be recovered from the petitioner and except this nothing incriminating was recovered from the petitioner. The complainant has falsely implicated the petitioner as an afterthought. Nothing is to be recovered from the petitioner, contends the learned counsel.

3.2 He submits that matter has been compromised between prime accused and the complainant. He further submits that the complainant neither recognize him nor named him. He states that even otherwise it is a case of mistaken identity.

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.

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

6. In response to a query from the Court, under instructions from SI, Hans Raj, learned State counsel informs that the challan has been filed and charges were framed on 03.11.2022. Out of 22 prosecution witnesses, 12 have been examined. Thus, the investigation regarding the petitioner is complete, and he is not required for custodial interrogation. However, he submits that nine other cases are pending against him.

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 June 17, 2022, for more than 1 year and 3 months.

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

9. The petitioner is stated to be a 24-year-old family person and the sole breadwinner of his family. He has already lost his livelihood due to prolonged incarceration. Having a family to look after and a fixed abode, it is unlikely that he poses any flight risk and/or will flee from trial proceedings.

10. 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.

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

12. 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.

13. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on the merits of the case, as the same is for the limited purpose of the bail hearing alone, and the learned trial Court shall proceed without being influenced by this order.

14. Pending applications, if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

11.10.2023

Vandana

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No