

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-50361-2023 (O&M)

Date of decision: 11.10.2023

Amit

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Surinder Singh Duhan, Advocate,
For the petitioner.

Mr. Vikas Bhardwaj, A.A.G., Haryana.

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 with FIR No.150 dated 17.03.2023, registered under Sections 308, 323, 427, 452, 506 (Final report submit in Sections 308, 323, 325, 427, 452, 506, 201, 120-B of the Indian Penal Code, 1860 (IPC), at Police Station, City Sonipat, District Sonipat (Haryana).

2. The prosecution's case is that Deepak and Rohit were admitted to Government Hospital, Sonipat on 17.03.2023. Upon receiving information about their hospital admission due to a quarrel, the police arrived at the scene. Injured Rohit was referred to PGIMS, and Deepak presented his statement after being found fit to do so. He stated that he was at his friend Rohit's house on 16.03.2023. Around 9:30 a.m., Rohit went outside to answer his mother's call, and a lady named Suresh, wife of Balwan, stopped Rohit from taking the call in the street, then proceeded to verbally abuse him. Deepak and Rohit had spent the night at Rohit's house. During the night, Amit and several others entered Rohit's house, armed with lathis and dandas, and attacked both Rohit and Deepak, causing injuries to various parts of their bodies. The complaint was written by Ashish, a friend of the complainant, seeking action against Amit and his friends. The petitioner was arrested on 03.04.2023 and has been in custody since then.

3. The learned counsel for the petitioner argues that the petitioner has no connection with the alleged offense. He submits that the alleged incident occurred on 16.03.2023, while the present FIR was registered on 17.03.2023, with a one-day delay.

The petitioner is not specifically implicated with any role, injury, or weapon. The false implication of the petitioner is evident from the Medical Legal Reports (MLR) of both injured parties, which show that they did not sustain any fatal injuries. Instead, they only suffered simple injuries, indicating that the police deliberately invoked Section 308 of the IPC. Additionally, the MLR reveals that both injured parties, Rohit and Deepak, were under the influence of alcohol when they were medically examined. According to the prosecution's version, a white Swift car and a wooden stick were recovered from the petitioner. However, this recovery has no clear connection with the petitioner, as no independent witness was present during the alleged recovery, and the recovery was made based on the revised disclosure statement of the petitioner.

3.1 Co-accused Suresh has already been granted pre-arrest bail by the learned trial court via an order dated 11.04.2023, and co-accused Ashutosh has also been granted anticipatory bail by this court via an order dated 01.08.2023.

3.2 He further submits that the petitioner is not required for further custodial interrogation. There is no likelihood of the petitioner tampering with evidence or influencing prosecution witnesses.

4. On the other hand, the learned State counsel strongly 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 and points out that there are four other cases pending against the petitioner.

5. I have heard the rival contentions of the learned counsels for the parties and have reviewed the case file.

6. In response to a query from the Court, under instructions from SI Chain Singh, the learned State counsel informs that challan was presented on 29.05.2023 and supplementary challan was submitted on 25.09.2023. Investigation concerning the petitioner is complete, and he is not required for custodial interrogation.

7. At this stage, allegations against the petitioner are a matter of trial. Of the eighteen prosecution witnesses, none has been examined so far.

Commencement/conclusion of the trial is likely to take a long time. Bail serves the pur-

pose of allowing an accused to remain free until their guilt or innocence is determined. In contrast, the petitioner has been in detention since April 3, 2023, for more than 06 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 32-year-old family person and is the sole breadwinner of his family members. They are living in sheer penury in his absence. He has already lost his livelihood due to prolonged incarceration. The petitioner is not a flight risk in any manner, given that he has a family to look after, has a fixed abode.

10. 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.

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

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 of the case as the same are for the limited purpose of hearing the instant bail petition 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

11.10.2023
vandana

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