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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-50633-2023 (O&M)

Date of decision: October 12, 2023

Ajay

....Petitioner

versus

State of Haryana

....Respondent

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

Mr. Vikas Bhardwaj, AAG 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 FIR No.178 dated 12.05.2023, registered under Sections 324, 308, 379B, 420 of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC'), at the Madhuban, Police Station in Karnal.

2. According to the FIR/prosecution's account, the FIR in question was registered based on the statement of the complainant, Jagdish Chand. He alleged that on May 11, 2023, at about 03:00 p.m., Ajay Kumar (the petitioner) arrived at his shop on a scooty bearing different registration numbers on the front and the rear plate. After spending some time at the shop, the petitioner attacked the complainant with a knife, inflicting blows on his chest and left arm, and snatched a currency note of Rs.500/- from his pocket. The complainant raised an alarm, leading to the gathering of people at the bus stand who apprehended the petitioner on the spot.

2.1. Based on the complainant's statement and after obtaining the Medico-Legal Report (MLR) of the complainant/injured, the FIR in question was initially registered under Section 324, 379-B, 420 of the Indian Penal Code (IPC). The petitioner was arrested and has remained in custody since then. The snatched currency note of Rs.500/- and the knife used in the incident were recovered at the petitioner's instance. The Honda

Activa scooty used in the incident was also taken into police possession. After obtaining

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the case summary of the injured/complainant, the charge under Section 308 IPC was added.

3. First and foremost, learned counsel for the petitioner points out an affidavit dated 21.07.2023 (Annexure P-2) from the complainant and submits that, as per the affidavit, a compromise has been reached between the parties.

3.1. The learned counsel also references the deposition of the complainant (Annexure P-3) to demonstrate that the complainant retracted his earlier statement given to the police and failed to identify the petitioner as the assailant on the date of the incident. As a result, the complainant was declared hostile. The counsel further argues that, based on the complainant's deposition, it is likely that the trial will result in the petitioner's acquittal, asserting that the petitioner has been falsely implicated in this case.

3.2. Finally, he submits that nothing needs to be recovered from the petitioner, and he is not required for further custodial interrogation. There is no likelihood of the petitioner tampering with evidence or influencing prosecution witnesses, and 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. Also argues that the petitioner has committed a serious offense. He however, admits that petitioner is not involved in any other case.

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

6. In response to a query from the Court, under instructions from HC Jasbir, learned State counsel informs that the challan has already been filed and charges were framed on August 28, 2023. Thus, the investigation regarding the petitioner is complete, and he is not required for custodial interrogation.

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. Of the ten prosecution witnesses, only two have been examined so far. Bail serves the purpose of allowing an accused to remain free until their guilt or innocence is

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determined. In contrast, the petitioner has been in detention since May 12, 2023, for more than 05 months.

8. The petitioner’s continued preventive custody is based on an unsubstantiated suspicion that he might tamper with evidence or influence witnesses. There is no probability of tampering with evidence as it has already been seized by the investigating agency.

9. The petitioner is stated to be a 30-year-old person and having 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, in case not required in any other case, upon 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.

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 they are 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

October 12, 2023
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No