

CRM-M-51224-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: 13.10.2023

Gurtej Singh

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Amandeep Singh Rai, 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. 78 dated 30.05.2023, registered under Sections 307, 353, 186, 506 of the Indian Penal Code, 1860 (for short 'IPC') and Section 27 of the Arms Act, 1959 at the Dakha, Police Station in Ludhiana.

2. According to the First Information Report, the complainant, Gurpeet Kaur, who is the wife of the petitioner, alleged that on May 30, 2023, the petitioner, in an inebriated condition, threatened her and her daughter, Gurrehmat Kaur, with the intention to kill them. On the day of the incident, the petitioner, armed with a .12 bore gun, fired shots towards them and her brother, Talwinder Singh, but missed the target. Consequently, the matter was reported to the police. However, when the police arrived at the scene, the petitioner also fired towards them with the intention to harm them and obstructed them from performing their duties. Petitioner was arrested on May 30, 2023. One .12 bore licensed gun, along with one live cartridge and six empty cartridges, was recovered from the petitioner.

3. The learned counsel for the petitioner contends that the FIR was registered based on a false and fabricated version of the complainant who is none other but wife of the petitioner. The case was registered due to a misunderstanding between husband and wife. Moreover, it's a case with no injuries. Thus, the petitioner has been falsely implicated in the present case.

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3.1. The petitioner's counsel also contends that the FIR was registered based on a concocted verbal version provided by the complainant, as no complaint was given against the petitioner by her until this date.

3.2. The petitioner's counsel also argues that there is no need for further custodial interrogation of the petitioner, as there is nothing left to be recovered from him. Moreover, there is no indication that the petitioner would tamper with evidence or influence prosecution witnesses.

3.3. He further submits that the petitioner has been in custody since May 30, 2023, and the challan has already been presented. The trial is expected to take a long time; thus, keeping the petitioner behind bars would not serve any useful purpose. The petitioner is not involved in any other case.

4. On the contrary, the 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. He contends that petitioner also obstructed the police party from performing their official duties. 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, it transpires that the investigation against the petitioner has been completed, and charges were framed on September 05, 2023. At this stage, the allegations against the petitioner are subject to trial. Of the eight prosecution witnesses, none has been examined so 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 May 30, 2023, for more than four 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 42-years old ex-army family person. Having a stable residence and clean antecedents, the petitioner is unlikely to pose a flight risk or evade trial proceedings.
9. 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.
10. 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.
11. 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.
12. 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.
13. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

October 13, 2023
Ajay

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