

CRM-M-51435-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

243

CRM-M-51435-2023

Date of decision: 16.10.2023

Gurpreet Singh @ Gopi

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Tanvir Singh Attariwala, 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. 02, dated 05.01.2023 (Annexure P-1), registered under Sections 379-B read with Section 34 of the Indian Penal Code, 1860 (for short 'IPC') (Section 379-B(2), 411 IPC and Section 25 of the Arms Act, 1959 was added later on) at the Shimlapuri, Police Station in Ludhiana.

2. The FIR was lodged based on the statement of the complainant, Darshan Kaur. She alleged that on January 05, 2023, at about 02:00 pm, when she was returning from the Gurudwara after paying obeisance, two persons on a motorcycle approached her. The pillion rider disembarked and forcibly snatched her gold earrings. Both of them fled on their motorcycle after pushing her. Accordingly, the FIR was registered against unknown persons. During the investigation, the petitioner and co-accused Manjot Singh were nominated as accused in the present case on January 12, 2023, in pursuance of disclosure statements made by them during the investigation of FIR No. 4 dated January 09, 2023, registered under Section 379B(2) read with Section 34 IPC and Section 25 of the Arms Act at the Police Station, Shimlapuri, District Ludhiana. Thereafter,

they were arrested in the present case, and co-accused Karandeep Singh was nominated, to whom stolen earrings were sold by petitioner Gurpreet Singh and co-accused Manjot Singh. Recovery of the gold earrings snatched by him and the co-accused was then made from co-accused Karandeep Singh. The said earrings were identified by complainant Darshan Kaur on January 14, 2023.

3. Learned counsel for the petitioner contends that the petitioner was neither named in the FIR nor apprehended at the spot. He further submits that the petitioner has been nominated on the basis of self-incriminating custodial disclosure statements, which are not per se admissible evidence. The petitioner has nothing to do with the alleged offense. Apart from the confessional statement, there is not even an iota of evidence to support the case of the prosecution. Thus, the petitioner has been falsely implicated in this case.

3.1. Furthermore, the petitioner's counsel asserts that there is no substantial evidence against the petitioner. Moreover, the Arms Act has been invoked, whereas no unlicensed weapon was recovered from the petitioner. No substantial case is made against the petitioner, and the prosecution's narrative appears to be an attempt to falsely implicate him. The petitioner's counsel also contends that there is no need for further custodial interrogation of the petitioner, as nothing remains to be recovered from him. Moreover, there is no indication that the petitioner would tamper with evidence or influence prosecution witnesses.

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. He further submits that the petitioner is involved in one more case but is currently out on bail in the said case.

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

6. On a Court's query, as to how Section 25 of the Arms Act, 1959 was invoked as learned counsel for the petitioner states that no unlicensed weapon as

CRM-M-51435-2023

envisaged under Section 25 of the Arms Act 1959 was recovered from the petitioner. Learned State counsel, under instructions from ASI Bachittar Singh, submits that it was a toy gun made of plastic which was recovered at the instance of petitioner and at the relevant time, Section 25 of the Arms Act was invoked, thinking it to be an illicit arm.

7. In response to further query from the Court, it transpires that the investigation against the petitioner has been completed, and charges have not been framed yet. At this stage, the allegations against the petitioner are subject to trial. Of the eight prosecution witnesses, none have 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 January 12, 2023, for more than 09 months.

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

9. Petitioner is stated to be 28-year old youngman and has already lost his livelihood due to prolonged incarceration. Having 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 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, in case not required in any other case, 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-51435-2023

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 16, 2023
Ajay

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