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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRM-27113-14-2023 in/and
CRM-M-54636-2022 (O&M)
DATE OF DECISION: 14.07.2023**

Shamsher**...Petitioner****Versus****State of Haryana****...Respondent****CORAM : HON'BLE MR. JUSTICE ARUN MONGA**

Present : Mr. Pawan Kumar Hooda, Advocate,
For the petitioner.

Ms.SvaneelJaswal, Addl. AG, Haryana assisted by
ASI Ram Niwas.

ARUN MONGA, J. (ORAL)

CRM-27113-2023

Allowed as prayed for and zimni orders and medical record of petitioner contained at Annexures P-3 and P-4 are taken on record, subject to all just exceptions.

CRM-27114-2023

This is an application for preponing the main case which is fixed for 02.08.2023.

For the reasons stated in application, same is allowed and main case is preponed and taken up on Board today itself.

MAIN CASE

Petitioner, seeks bail in case bearing FIR No.400 dated 13.07.2022, registered under Sections 307, 447, 506 of the Indian Penal Code, 1860 (for short 'IPC'), Sections 25 and 27 of Arms Act, 1959, (Section 30 of Arms Act added later on), at Police Station Gohana Sadar, District Sonipat.

2. Per the First Information Report (FIR), complainant Sandeep informed that on 13.07.2022 at 10:30 a.m. he saw accused Shamsheer harvesting more than his share from the field where complainant was present too. When complainant tried to stop him from doing so, the accused fired two shots with his revolver with an intention to kill him. Complainant had a narrow escape and the fire shots hit tyre of tractor. Accused fled away from the spot after threatening the complainant with dire consequences. Accused was carrying one DDBL gun and one revolver. An FIR was registered on 02.01.2020. Petitioner was arrested on 13.07.2022.

3. Learned counsel for petitioner submits complainant is brother of the petitioner. There is a land dispute with regard to their respective shares in their lands. Petitioner used to give his land on lease and complainant objected to same and used to quarrel with him. He further contends that it was complainant who blocked the passage of petitioner by parking his tractor in front of the tractor of petitioner. Complainant along with others attacked the petitioner and in order to save himself, petitioner fired two shots towards rear tyre of the tractor of complainant. He did not fire any gun shot on the petitioner.

3.1 Learned counsel for petitioner further canvasses that investigation is complete as challan was presented long back on 13.08.2022. Petitioner fired shots in his self-defense just to scare the goons. Recovery has already been effected from him. No injury has been attributed to him.

3.2. Learned counsel for petitioner refers to medical record of petitioner contained at Annexure P-4 to contend that petitioner is suffering from heart disease and needs urgent surgery. He needs specialized treatment, proper care and attention.

3.3. Learned counsel would further argue that he has four children. His two daughters are married, whereas his two other marriageable children are dependent upon him. Their marriage prospects will get severely jeopardized with his continued incarceration. His wife is working as Senior Nursing Officer

whereas petitioner is serving as Veterinary Life Stock Development Assistant. There are no chances of his fleeing from justice.

4. On the other hand, learned State counsel opposes the bail petition on the ground that petitioner has committed a serious offence. Complainant has not been examined yet and there is every possibility of petitioner tampering with the evidence and witnesses, if released on bail.

4.1. *Apropos* order dated 12.07.2023, learned State counsel has tendered in Court a copy of medical report of petitioner in course of hearing which is taken on record as Annexure 'A'. Same reveals that petitioner is suffering from heart ailment and is under treatment in PGIMS, Rohtak. Learned State counsel fairly concedes that petitioner has indeed been advised urgent surgery. However, she would urge that per medical report (Annexure 'A'), he refused his surgery in PGIMS Rohtak as he wants to get himself operated from a private hospital.

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

6. Perusal of medical record reveals that petitioner requires immediate medical assistance as he is required to be operated upon. It is stated that petitioner is 55-year old and has fixed abode, being government employee, having family and property etc. There appears no likelihood that petitioner might flee or not appear in Court, if released on bail.

9. That apart, since challan has been filed and trial has commenced, petitioner is not required for any custodial interrogation. There are total 13 witnesses and as per prosecution, not even a single witness has been examined so far. Trial is unlikely to conclude in near future. Whereas, petitioner has already been languishing in jail for the past one year in preventive custody, being in custody since 13.07.2022.

10. Considering the overall scenario and particularly the medical condition of petitioner, without commenting on the merits of case, the instant

petition is allowed. I am of the view that no useful purpose would be served to keep petitioners 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 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.

12. In case, petitioner is found to be involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of their 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.

JULY 14, 2023
Shalini

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No