

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-32634 -2023 (O&M)

Date of decision: 17.07.2023

Aman @ Shunty

...Petitioner

VS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Manpreet Singh Bhatti, Advocate,
For the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

Mr. T.P.Singla, Advocate,
For the complainant.

ARUN MONGA, J. (ORAL)

Aggrieved on being declined bail by the learned trial court, petitioner seeks his release as undertrial in a case bearing FIR No.189 dated 26.04.2022, registered under Sections 307, 201, 120-B of the Indian Penal Code, 1860 (for short 'IPC') and Sections 25 of Arms Act at Police Station, Tarori District Karnal.

2. As per prosecution version, on 22.04.2022 an information was received that Joginder Singh is admitted in Amritdhara Hospital, Karnal on account of injuries sustained in a road side accident. His statement was recorded wherein he alleged that while he was riding his motorcycle, he heard a loud sound of blast and then suddenly a Creta vehicle hit his motorcycle and he fell down. Driver of creta vehicle fled away from the spot. His family brought him to AHRR Hospital, Delhi where the operation of his spinal cord was conducted and a bullet was extracted from his body. The occupants of the car thus hit his motorcycle and then fired gunshot at him with the intention to kill him. FIR was registered.

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3. Learned counsel for the petitioner submits that petitioner has been falsely implicated as he was not named in the FIR. There is an unexplainable delay of 4 days in registration of FIR. He further contends that co-accused have already been granted bail by a coordinate Bench of this Court contained at Annexures P-3 and P-4 respectively and as such petitioner is entitled to concession of bail on the grounds of parity alone.

3.1. He submits that petitioner was allegedly driving the vehicle at the time of incident, and that's the only purported role attribute to him, when the prime accused Mohit carrying gun, fired shots on the injured/complainant. He contends that car never hit the motorcycle and petitioner had no knowledge of the intent of the co-passenger, as alleged that he fired a gunshot. He submits that neither any overt act nor any injury has been attributed to the petitioner except driving the car. He submits that challan has been presented. Charges have been framed. There are 24 prosecution witnesses and trial is unlikely to conclude in near future.

3.2. Learned counsel for the petitioner further submits that petitioner is the sole breadwinner of his family having two minor children, wife and old age parents.

4. Per contra, learned State counsel on instructions from SI Sultan Singh opposes the bail petition. He submits that there are 24 prosecution witnesses and complainant is yet to be examined. There is every likelihood of petitioner threatening the witness or tampering with the evidence. He further submits that petitioner is a habitual offender as he is involved in as many as six other cases under Sections 307, 174-A and 25 of Arms Act, and therefore, he does not deserve concession of bail, at this stage. Per custody certificate, petitioner is on bail in four out of six cases.

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5. Learned counsel for the complainant strenuously opposes the petition and submits that complainant is serving in Indian Army and he had come home to visit his family after taking annual leave.

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

7. On a Court query, learned State counsel submits that challan has been presented and charges have been framed. Being so, since trial has commenced petitioner is not required for any further custodial interrogation and is being kept in preventive custody only on the suspicion of influencing the witnesses. Out of 24 prosecution witnesses, none has been examined so far. Trial is likely to take a long time. Whereas, petitioner has already been in jail for the past more than one year and two months being behind bars since 09.05.2022.

8. Given his family background, there is no likelihood that petitioner might flee or not appear in Court if released on bail. Allegations against petitioner are a matter of trial. Bail allows an accused to maintain his freedom until his guilt or innocence is determined.

9. Considering the overall scenario and 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 in instant case.

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 Magistrate, as the case may be.

11. 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 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

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limited purpose of hearing the instant bail petition 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

17.07.2023

vandana

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No