

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

211

**CRM-M-48165-2022 (O&M)
Date of decision: 21.10.2022**

RAJESH KUMAR

....Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Ms. Suman Kumari, Advocate
for the petitioner.

Mr. M.S. Joshi, Additional AG Punjab.

AMAN CHAUDHARY. J. (ORAL)

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in respect of FIR No.104 dated 26.09.2016 under Sections 323, 324, 307, 506, 148 and 149 of the Indian Penal Code, 1860, (Section 307 IPC deleted and Section 326 IPC added later on) registered at Police Station Bahav Wala, District Fazilka.

Learned counsel for the petitioner contends that the petitioner was granted regular bail vide order dated 11.04.2017 by learned Additional Sessions Judge. Thereafter, he kept regularly appearing on each date of hearing before the trial Court. However, on 03.03.2022, he could not appear on account of the fact that his mother suddenly fell ill and he was occupied in her treatment. On 19.07.2022, when he contacted his counsel before the learned trial Court, he came to know that his bail has been cancelled and surety bonds were forfeited to the State and had also been declared as proclaimed offender vide order dated 05.07.2022. Learned counsel submits that when the petitioner himself surrendered before the trial Court on 19.07.2022, his regular bail application was dismissed

vide order dated 31.08.2022 (Annexure P-3). Learned counsel further submits that though in the FIR he had been granted regular bail, he is now in custody only on account that he had absented himself before the trial Court on one date of hearing for the reasons afore-stated. He also submits that he is in custody for the last 03 months and 03 days and the trial is likely to take time as only 02 witnesses out of 23 witnesses have been examined.

Per contra, learned State counsel submits that there is inordinate delay by the petitioner for contacting his counsel and thereafter he surrendered before the trial Court. He, however, does not controvert the fact that the petitioner had earlier been granted bail vide order dated 11.04.2017 and had been regularly appearing except on 03.03.2022 and that he had himself surrendered on 19.07.2022.

I have heard learned counsel for the parties.

Keeping in view the facts and circumstances and particularly that the petitioner had absented himself on account of reasons afore-stated and voluntarily surrendered before the Court; the petitioner has been in custody for the last 03 months and 03 days and trial is likely to take time as only 02 witnesses out of 23 witnesses have been examined, his further detention behind the bars would not serve any useful purpose, the present petition for grant of regular bail deserves to be allowed.

As a result, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned and subject to him not being required in any other case. The petitioner shall abide by the following conditions:-

“1. The petitioner will not tamper with the evidence during the trial.

- 2. The petitioner will not pressurize/ intimidate the prosecution witnesses.*
- 3. The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.*
- 4. The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.*
- 5. The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/ her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.*
- 6. The petitioner shall not in any manner misuse his liberty.*
- 7. Any infraction shall entail in withdrawal of the benefit granted by this Court.”*

In view of the above, this Court makes it clear that the observations made herein above are limited for the purpose of present proceedings and would not be construed as any opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

(AMAN CHAUDHARY)
JUDGE

October 21, 2022

S.Sharma(syr)

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>