

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

212

CRM-M-53711-2021

Date of Decision: September 07, 2022

ANIL KUMAR ALIAS RAJA PAHARIA ALIAS RAJ KUMAR

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. M. S. Sidhu, Advocate
for the petitioner.

Mr. Manipal Singh Atwal, DAG, Punjab.

Mr. S. S. Rana, Advocate and
Mr. Arvind Kumar Sharma, Advocate
for the complainant.

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.40 dated 26.02.2014 under Sections 302, 307, 324, 148, 149 and 120-B of IPC and Sections 25, 27, 54, 59 of Arms Act, registered at Police Station Basti Bawa Khel, Jalandhar.

Learned counsel for the petitioner contends that the petitioner has not been named in the FIR, he has only been nominated on the disclosure statement made by co-accused Gurpreet Singh @ Gopi, who had stated that when the alleged occurrence took place the petitioner was also present at that time along with him. He further submits that the said co-accused had since been granted regular bail by this Court vide order dated

07.12.2021 (Annexure P-6). Learned counsel further submits that two other co-accused who are similarly situated to the petitioner in as much as they were also nominated based on the disclosure statement in the same manner as the petitioner in the present case have also been granted regular bail by this Court vide order dated 16.03.2018 (Annexure P-3) who were also declared proclaimed offender as was the petitioner. The ground of grant of bail was that mainly out of 45 prosecution witnesses only 07 had been examined. He further submits that in so far as the another co-accused Gurcharan Singh @ Sweety is concerned, who was also granted regular bail vide order dated 11.05.2018 by a co-ordinate Bench of this Court, had been in custody for about 11 months and the factum of grant of regular bail to co-accused was taken into consideration, wherein it was mentioned that 07 prosecution witnesses out of 45 had been examined. He submits that the petitioner has been in custody for the last 03 years and 07 months.

Learned counsel for the complainant submits that the petitioner and co-accused has formed a group by the name of Bhana Group and they used to commit offences and involved in several cases. Learned counsel further submits that there are 12 cases registered against the petitioner under various sections including 307 IPC.

Learned counsel in rebuttal submits that in all those 12 cases, the petitioner has been granted regular bail, in few cases by co-ordinate Benches of this Court and in other cases by the learned trial Court. The orders of which have been produced before the Court during the course of hearing.

Learned State counsel opposes the prayer for grant of regular

bail to the petitioner but confirms the factum that only 07 witnesses out of 47 have been examined till date. He however, unable to dispute the fact that the petitioner is in custody for 03 years and 07 months. With regard to the grant of bail to the other co-accused, he is unable to distinguish the case of the petitioner with their cases.

I have heard learned counsel for the parties.

Keeping in view the facts and circumstances of this case that the evidence to connect the petitioner to the alleged occurrence is the disclosure statement of co-accused Gurpreet Singh @ Gopi which is not admissible in evidence. Even otherwise, as per the said statement also the only role attributed to him is that he was also present along with the co-accused at the time of occurrence. No specific role has been attributed to the petitioner in the present case. It is the admitted case of the parties that similarly situated co-accused have already been granted bail including the main accused Gurpreet Singh @ Gopi by co-ordinate Bench of this Court. It is also the common case of the parties that the petitioner has been in custody for the last 03 years and 07 months and only 07 witnesses out of total of 47 witnesses have been examined. The trial is likely to take some time, his further detention behind the bars would not serve any useful purpose, the present petition for grant of regular bail deserves to be allowed.

Accordingly, 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.”

It is, however, clarified that nothing stated hereinabove be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made above, which have only been made for the purpose of adjudicating the present petition for grant of regular bail.

September 07, 2022
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(AMAN CHAUDHARY)
JUDGE

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