

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

CRM-M-56511-2022

Date of Decision: 9th December, 2022

Anup Tigga @ Monti

... Petitioner

Versus

State of Punjab

... Respondent

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. P.K.S. Phoolka, Advocate for the petitioner.
Mr. Arun Luthra, DAG, Punjab.

AVNEESH JHINGAN , J.(Oral)

1. This petition is filed seeking regular bail in FIR No. 109, dated 5th August, 2021, under Sections 364-A, 386, 506 read with Section 34 of Indian Penal Code, 1860 and Section 25 and 27 of Arms Act, 1959, registered at Police Station City Budhlada, District Mansa.
2. Learned counsel for the petitioner claims parity with co-accused Kuldeep Singh @ Angrej Singh who was granted regular bail by this court on 18th November, 2022.
3. The following order was passed by this Court:

“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.109 dated 05.08.2021, under Sections 364-A, 386, 506 and 34 of the IPC and Section 25 and 27 of the Arms Act, registered at Police Station City Budhlada, District Mansa.

Learned counsel submits that the petitioner is in custody since 06.08.2021. He was not named in the FIR, however, his name surfaced on account of disclosure statement of co-accused Gurjiwan Singh, who is also in custody from whom substantial recovery was effected. He submits that there is no direct evidence against the petitioner and the alleged recovery is of a toy pistol and Rs.5000/-, which he submits cannot connect him to the alleged incident. He is not involved in any other criminal case. It is his further submission that despite the charges having been framed on 03.11.2021, none out of the 14 witnesses have been

examined. On the last date of hearing, the case was adjourned to await examination of the complainant, however, despite that no witness has been examined.

Contrarily, learned State counsel opposes the bail stating that the petitioner played active role in the alleged incident while in association with the main accused. However, he is unable to controvert the fact that recovery from the petitioner is as afore-stated by him, petitioner is in custody since 06.08.2021, charges having been framed on 03.11.2021, till date none of the 14 witnesses have been examined.

Heard.

In view of the facts and circumstances of the case, in particular that petitioner is in custody since 06.08.2021; petitioner was not named in the FIR and was nominated as an accused on the basis of disclosure statement of co-accused charges have been framed on 03.11.2021 but no witness has been examined out of 14 PWs; the conclusion of the trial is likely to take a considerable time, his further detention behind bars would not serve any useful purpose, thus, 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.

8. The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with

prior intimation to the learned Trial Court, stating the reason for the same.

9.The petitioner shall deposit his passport, if any, with the Trial Court forthwith and in case, he does not have the passport, he shall furnish a specific affidavit in this regard.

It is made clear that in case of breach of any of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

In view of the above, this Court makes it clarified 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.”

4. Learned counsel for the State though opposes the prayer for grant of bail but on instructions fairly submits that challan has been presented. He is not in a position to distinguish the case of the petitioner qua the co-accused so far as grant of bail is concerned.

5. Without commenting on the merits of the case, on the basis of parity of petitioner vis-a-vis co-accused so far as grant of bail is concerned and though the investigation is complete conclusion of trial is likely to take time, the petitioner is granted bail subject to his furnishing bail bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned. He shall also abide by the conditions imposed in CRM-M-44219-2022 on 18th November, 2022.

6. The petition is allowed.

7. However, it is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

**(AVNEESH JHINGAN)
JUDGE**

9th December, 2022

Parveen Sharma

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No