

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

215

CRM-M-1997-2023 (O&M)

Date of decision: 16.05.2023

Sunil @ Susa

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Ajay Vijarania, Advocate for the petitioner

Mr. Praveen Bhadu, AAG Haryana

AMAN CHAUDHARY. J.

1. The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in case FIR No.19 dated 12.01.2022, registered under Sections 120-B, 148, 149, 302, 323, 364, 427, 452 and 506 IPC, at Police Station City Bhiwani, District Bhiwani.

2. Learned counsel contends that the petitioner is in custody for the last 1 year and 1½ months. The name of the petitioner surfaced based on disclosure statement of co-accused Hari Krishan @ Haria. He makes a reference to the challan wherein it is specifically stated that the petitioner had left the company of co-accused after getting off the vehicle in which they were all travelling and the beatings to the deceased have been given thereafter by the co-accused, while the petitioner was not with them. The complainant stands examined, who has not identified the petitioner. Out of 55 prosecution witnesses, only 4 have been examined. There is one more case pending against the petitioner, wherein he is on bail. He relies on the judgment of Hon'ble The Supreme Court in **Maulana**

Mohd. Amir Rashadi vs. State of U.P. and others, 2012(2) SCC 382.

3. Learned State counsel opposes the bail on the ground that the petitioner was accompanying the co-accused, who had given beatings to the complainant, whereafter the injured passed away. He is however unable to controvert the submissions with regard to custody, stage of trial and the complainant not having identified the petitioner.

4. Heard.

5. Hon'ble The Supreme Court of India in the case of **Maulana Mohd. Amir Rashadi** (*Supra*) had held that, "As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc."

6. In view of the afore-referred judgment and facts and circumstances of the case, in particular that the petitioner is in custody for the last 1 year and 1½ months; he is on bail in the other case; complainant stands examined; out of 55 prosecution witnesses, only 4 have been examined; the trial is likely to take a considerable time, his further incarceration would not serve any useful purpose, thus the present petition for grant of regular bail deserves to be allowed.

7. 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 his 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. 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.
- 8. 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.

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

9. In view of the above, it is 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.

(AMAN CHAUDHARY)
JUDGE

May 16, 2023
M.Kamra

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