

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

219

CRM-M-4152-2023 (O&M)
Date of decision: 16.08.2023

Ajay Kumar

..Petitioner

Versus

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Rhythem Bajaj, Advocate for the petitioner.

Ms. Himani Arora, AAG, Punjab.

AMAN CHAUDHARY, J.

1. Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in FIR No.29 dated 22.02.2021, registered under Sections 452, 323, 148, 149, 201, 365, 307 and 120B IPC and Section 25 of the Arms Act, at Police Station City-I, Abohar, District Fazilka.

2. Learned counsel contends that the petitioner is in custody for the last more than 8 months. Though as per the FIR, he was alleged to be carrying pistol however, no specific role has been attributed to him. The main injury has been attributed to co-accused Akash @ Bhalu, who was granted bail vide order dated 24.02.2022. All the 11 accused involved in the case are on bail, orders, Annexure P3 (colly.), regarding them have been referred. Though he is involved in other FIRs, however, he is on bail in those. Reliance is placed 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. Challan was presented on 22.12.2022, but charges have not been framed and in all there are 21 witnesses.

3. Learned State counsel opposes the bail on the ground that the petitioner had actively participated in the commission of offence. She is however

unable to controvert the submissions made regarding the custody, stage of the trial and the petitioner being on bail in other cases.

4. Heard.

5. Hon'ble The Supreme Court 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.” Reiterating in **Prabhakar Tewari vs. State of UP and another**, (2020) 11 SCC 648, it was observed that, “The offence alleged no doubt is grave and serious and there are several criminal cases pending against the accused. These factors by themselves cannot be the basis for refusal of prayer for bail.”

6. Considering the facts and circumstances of the case, in particular that the petitioner is in custody for more than 8 months; on bail in other cases; all the other co-accused are on bail; though challan was presented on 22.12.2022, however, charges are yet to be framed and there are a total of 21 prosecution witnesses; the trial is likely to take a considerable time, thus his further incarceration would not serve any useful purpose, 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:-

- (i) The petitioner will not tamper with the evidence during the trial.

- (ii) The petitioner will not pressurize/ intimidate the prosecution witnesses.
- (iii) The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
- (iv) 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.
- (v) 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.
- (vi) The petitioner shall not in any manner misuse his liberty.
- (vii) 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.
- (viii) The petitioner shall not leave the country without prior permission of the trial Court.
- (ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioner.

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 are limited for the purpose of present proceedings and would not be construed as an opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

16.08.2023
ashok

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No