

**219((3) IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH**

**CRM-M-4805-2023
Date of Decision: 11.05.2023**

Tausif Chisti @ Syed

...Petitioner

V/S

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Vibhor Bansal, Advocate
for the petitioner.

Mr. Madhur Sharma, AAG, Punjab.

DEEPAK MANCHANDA J. Oral

Instant petition has been filed under Section 439 Cr.P.C. seeking regular bail in the case bearing FIR No.0006 dated 23.08.2022 registered under Sections 153, 153-A and 120-B of the Indian Penal Code, 1860 and Section 25 of Arms Act, 1959 at Police Station State Special Operation Cell, District Intelligence Wing (CID) (Annexure P-1) and Sections 212, 216 of IPC, Section 21-61-85 of Narcotic Drugs and Psychotropic Substances Act and Section 54-59 of Arms Act added later on.

Short reply by way of an affidavit of Gurcharan Singh, PPS, Deputy Superintendent of Police, State Special Operation Cell, SAS Nagar has been filed by State, which is taken on record.

Brief facts of the case are that on 23.08.2022 SI/ SHO Manpreet Singh received a secret information that Lakhvir Singh @ Landa, who is residing in Canada in connivance with Satnam Singh @ Satta alongwith other unknown persons are illegally supplying arms and ammunitions and funding, he being follower of Khalistan separatist ideology with an intent to

create disturbance on the ground of religion at the instance of Pakistani Agency ISI and target the leaders of religious organizations and political leaders due to which peace of State of Punjab may disturb and FIR was registered.

Learned counsel for the petitioner contends that the petitioner has not been named in the FIR and as per challan annexed with the petition as Annexure P-2 dated 23.08.2022 has been nominated on the basis of disclosure statement of the co-accused, namely, Charat Singh, who stated during interrogation that said Charat Singh has stayed with the petitioner. Hence, petitioner has harboured the person knowing well that he was involved in terrorist activities whereas, from the perusal of FIR as well as challan, no such allegation is levelled against the petitioner neither there is any witness in the challan presented by the prosecution to reflect any such occurrence having been committed by the petitioner. He further contends that no recovery is to be effected from the petitioner where the challan stands presented but the charges have not been framed yet and the conclusion of trial will take sufficient time, therefore, prayer is made for the petitioner to be enlarged on bail.

Custody certificate has been filed by the respondent-State, which is taken on record. Even though learned counsel appearing on behalf of respondent-State, on instructions from the Investigating Officer, opposes the grant of regular bail to the petitioner, while submitting that the offence alleged against the petitioner is serious in nature and 03 cases were registered against the petitioner, however he does not dispute the fact that challan stands presented but the charges have not been framed.

Confronted with the same, learned counsel for the petitioner

submits that except the present case, three more FIRs have been registered against the petitioner i.e., FIR No.27 dated 13.04.2013 under Sections 143, 149, 307, 323, 427, 452 of the Indian Penal Code at Police Station Dargah District Ajmer, FIR No.53 dated 06.05.2014 under Sections 341, 323, 379 of the Indian Penal Code at Police Station Dargah District Ajmer and FIR No.76 dated 16.06.2014 under Sections 147, 148, 149, 323, 341, 324, 326, 307 of the Indian Penal Code at Police Station Dargah District Ajmer but he is on bail in all those cases.

I have heard learned counsel for the parties.

Petitioner is in incarceration since 19.10.2022.

It is not a case made out by the respondent-State that in case concession of bail is granted to the petitioner, he would hamper the course of free and fair trial. Further, in view of the judgments passed by the apex court in ***Maulana Mohd. Amir Rashdi vs. State of Uttar Pradesh and Another in Criminal Appeal No. 159 of 2012 and Prabhakar Tewari vs. State of UP & Another in Criminal Appeal No. 152 of 2020***, wherein it has been observed that though there are other cases pending against the petitioner but the facts of the present case are to be considered and further, since the challan stands presented but the charges have not been framed and the trial would take sufficient time so, no useful purpose would be served in keeping the petitioner behind bars

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned on the following conditions:-

1. *he shall appear before the Court on each and every date of hearing;*

- 2. *he shall not give any threat or intimidation to the prosecution witnesses;*
- 3. *he shall not indulge in any criminal activity.*
- 4. *he shall not leave India without prior permission of this Court.*
- 5. *the bail-applicant shall surrender his passport with the investigating agency, if not already surrendered, before, the learned trial Court concerned.*
- 6. *on the reverse page of the surety bonds, the petitioner shall mention his permanent address along with the phone number, preferably that number which is linked with the Aadhar, and email (if any). In case of any change in the above particulars, the petitioner shall immediately and not later than 30 days from such modification, intimate about the change to the concerned police station and the concerned Court.*

The Court accepting bonds would ensure that two local sureties who are financially sound having immovable properties within jurisdiction of the district furnish the bonds.

In addition to that the trial Court may impose any term and condition found suitable to ensure that the petitioner does not abscond and interfere in the trial.

In case the petitioner violates any terms and conditions on which the bail has been granted to him, the prosecution would be entitled to apply for cancellation of his bail.

The petition is allowed accordingly.

(DEEPAK MANCHANDA)
JUDGE

11.05.2023
sapna

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