

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

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CRM-M-6841-2023(O&M)
Date of decision: 12.10.2023

Manish Kumar

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Amitabh Tewari, Advocate for the petitioner

Mr. B.S. Virk, Sr. DAG Haryana

AMAN CHAUDHARY, J.

1. Prayer in the present petition filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in case FIR No.204 dated 03.03.2022, registered under Sections 392, 394, 201, 120-B, 379, 411 and 307 IPC and Sections 25/29B of Arms Act, 1959 at Police Station City Yamunanagar, District Yamunanagar.

2. Learned counsel contends that the petitioner is in custody for 1 year and more than 4 months. His name surfaced based on disclosure statement of co-accused Saravjeet @ Dilpreet. The sole allegation against the petitioner is of having accompanied the other co-accused at the time of commission offence. The recovery shown to have been effected from him, is planted one. The above co-accused and Rahul @ Harsh, who had allegedly entered the shop and committed the theft are in custody. However, one co-accused namely, Sarabpreet @ Sabbi, who is stated to have done recce prior to the commission of offence, has

been granted bail by this Court vide order dated 20.09.2023, after being in custody for an year and was involved in 2 more cases, while co-accused Damandeep Singh, Sathak Chaudhary and Charanjit Kaur @ Babli were granted bail by the trial Court vide orders dated 20.10.2022, 25.11.2022 and 12.12.2022, Annexures P-4 to P-6 respectively and co-accused Jatinder Singh anticipatory bail by this Court vide order dated 03.08.2023. Charges were framed on 01.11.2022 and out of 40 prosecution witnesses, 9 have been examined including PW Gagandeep Singh, who has not supported the version of the prosecution. The complainant/PW-Sudhir Bhola is not appearing before the Court and as discernable from the order dated 11.04.2023, bailable warrants issued against him were received back with the report that he is living abroad. There is one more case pending against the petitioner. In this regard, 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.

3. Status report by way of an affidavit of Kanwaljeet Singh, HPS, Deputy Superintendent of Police, Head Quarter, Yamunanagar as also the custody certificate dated 13.09.2023 has been filed by learned State counsel. As per the same, the petitioner is behind bars for 1 year, 4 months and 8 days.

4. Learned State counsel opposes the bail on the ground that there are specific allegations levelled against the petitioner of having accompanied the co-accused at the time of commission of offence, is involved in one more case and the artificial jewellery has been recovered from him. He is however unable to controvert the submissions with regard to stage of the case and co-accused having been granted bail.

5. Heard.

6. 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."

7. Considering the facts and circumstances of the case, in particular that the petitioner is in custody for the last 1 year, 4 months and 8 days; implicated based on disclosure statement; co-accused have been granted bail; charges were framed on 01.11.2022 but only 9 out of 40 prosecution witnesses have been examined; 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.

8. 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.

9. 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.

10. 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.

(AMAN CHAUDHARY)
JUDGE

October 12, 2023
M.Kamra

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