

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

219

CRM-M-7425-2023 (O&M)
Date of decision: 13.07.2023

Ajay @ Bitoo

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Sandeep Singal, Advocate for the petitioner

Mr. Vikram Pamboo, Sr. DAG 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.118 dated 14.06.2022, registered under Sections 307, 341, 506 and 34 IPC and Sections 25, 27 and 30 of Arms Act, at Police Station Bahuakbarpur, District Rohtak, Haryana.

2. Learned counsel contends that the petitioner is in custody for the last about 11 months, having been arrested on 26.08.2022. As per the FIR, the injury on the hip of the complainant caused by a gunshot, was ascribed to the co-accused Pardeep and the petitioner. However, during investigation, the said injury was attributed only to the petitioner. Learned counsel makes a reference to Annexure P-2, wherein the said injury was opined to be simple in nature. Co-accused Pardeep has been granted bail by this Court vide order dated 26.05.2023, after a custody of 11 months and another co-accused Mainpal Singh, has also been granted regular bail by this Court vide order dated 04.11.2022. Challan was presented on 12.09.2022, however, the charges have not

been framed. In all there are 17 prosecution witnesses. Though, he is involved in 5 more cases, however, he is on bail. 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. Reply by way of an affidavit of Sandeep Kumar, HPS, Deputy Superintendent of Police, Meham, District Rohtak has been filed by learned State counsel. The same is taken on record. He opposes the bail on the ground that the injury caused by the firearm is attributed to the petitioner and the weapon has been recovered from him. He is however unable to controvert the submissions with regard to custody, stage of the case, co-accused having been granted bail, the petitioner is on bail in other cases and the injury has not been declared dangerous to life.

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 the last about 11 months; is on bail in other cases;

injury has been declared to be simple in nature; co-accused Pardeep and Mainpal have also been enlarged on bail; challan stands presented on 12.09.2022, however, the charges are yet to be framed; in all there are 17 prosecution witnesses, the trial is likely to take a considerable time, thus 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:-

- (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.

(AMAN CHAUDHARY)
JUDGE

July 13, 2023
M.Kamra

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