

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

224

CRM-M-12171-2023 (O&M)
Date of decision: 29.08.2023

Krishan

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Devender Arya, Advocate for the petitioner.

Mr. Baljinder Singh Virk, Sr. DAG, Haryana.

Mr. Prateek Pandit, Advocate for the complainant.

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 case FIR No.52 dated 15.02.2022, registered under Sections 148, 149, 506, 195-A and 307 IPC (Section 25 of the Arms Act, 1959 deleted later on), at Police Station Bawani Khera, District Bhiwani.

2. Learned counsel contends that the petitioner is in custody for about 1 year and 3 months having been arrested on 08.06.2022. The petitioner is alleged to be present at the dhaba, when co-accused Amit fired upon the complainant. Four similarly situated co-accused have been granted bail vide orders dated 28.10.2022, 29.11.2022 and 09.01.2023, Annexures P2 and P3. Though charges were framed on 17.09.2022, however, out of 38 prosecution witnesses, only 9 have been examined. The petitioner is involved in two more cases under the Arms Act and IPC,

wherein he is on bail. 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. Learned State counsel opposes the bail on the ground that the petitioner was present at the spot armed with a danda, which has been recovered from him, when the occurrence had taken place. He is however unable to controvert the submissions made regarding the custody, stage of the trial and co-accused have been granted bail and the petitioner being on bail in other cases.

4. Learned counsel for the complainant submits that this is the second occurrence, first of which occurred when the petitioner along with co-accused had attacked the dhaba of the complainant and snatched the money and in order to desist the complainant to depose against them, he was again attacked.

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." 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.”

7. Considering the facts and circumstances of the case, in particular that the petitioner is in custody for the last 1 year and almost 3 months; on bail in other cases; co-accused have been granted bail; charges were framed on 17.09.2022; there are a total of 38 prosecution witnesses, out of which, 9 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.

29.08.2023
ashok

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No