

IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

218

CRM-M-16693-2023 (O&amp;M)

Date of decision: 24.05.2023

Johnson @ Rahul Johnson

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

\*\*\*\*\*

Present : Mr. Manoj R. Sharma, Advocate for the petitioner

Mr. Jashanpreet Singh, DAG Punjab

\*\*\*\*\*

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 10.12.2022, registered under Sections 406, 420, 417, 34, 120-B IPC, Section 13 of Punjab Prevention of Human Smuggling Act and Section 24 of Immigration Act, at Police Station Sadar Pathankot, District Pathankot.

2. Learned counsel contends that the petitioner is in custody for the last 5 months and 3 days. He has been falsely implicated in the case. There is a delay of 1 year and 4 months in lodging the FIR. The alleged incident is stated to be of 25.08.2021, when an amount of Rs.25,500/- was deposited in the account of the petitioner by one Kamal Singh, who is a witness in the present case that was stated to have been paid to him by the complainant. Out of 16 prosecution witnesses, only 3 have been examined. It is a case of magisterial trial. Co-accused Anu @ Anju, who is the wife of the petitioner, has been granted anticipatory bail by this Court. Though, there are other cases pending against the petitioner, 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. Learned State counsel opposes the bail on the ground that the allegations against the petitioner are of having paid cash amount of Rs.3,50,000/- for sending the daughter of the complainant abroad. He is involved in 6 more cases, out of which 5 are under IPC and the 1 is under NI Act. He is however unable to controvert the submissions with regard to custody, stage of the case and the co-accused has been granted bail.

4. Heard.

5. Hon'ble The Supreme Court of India 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."

6. In view of the afore-referred judgment and facts and circumstances of the case, in particular that the petitioner is in custody for the last 5 months and 3 days; co-accused Anu @ Anju has already been granted anticipatory bail; it is a case of Magisterial trial; only 3 out of 16 prosecution witnesses, have been examined; the trial is likely to take a considerable time, 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:-

- 1. The petitioner will not tamper with the evidence during the trial.
- 2. The petitioner will not pressurize/ intimidate the prosecution witnesses.
- 3. The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
- 4. 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.
- 5. 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.
- 6. The petitioner shall not in any manner misuse his liberty.
- 7. 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.
- 8. The petitioner shall deposit his passport, if any, with the Trial Court forthwith and in case, he does not have the passport, he shall furnish a specific affidavit in this regard.

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

(AMAN CHAUDHARY)  
JUDGE

May 24, 2023  
M.Kamra

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