

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

234

CRM-M-18044-2023

Date of decision: 01.06.2023

Mohd Ali @ Guddu

....Petitioner

Versus

State of Haryana

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Rajiv Kumar Saini, Advocate
for the petitioner

Mr. M. S. Nagra, AAG, 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.308 dated 18.11.2018, registered under Section 379 IPC and Section 136 of the Electricity Act at Police Station Kunjpura, District Karnal.

2. Learned counsel contends that the petitioner has been in custody for about 1 year and 3 months. He has been falsely implicated in the present case on the basis of the disclosure statement of the co-accused. He relies on the judgment passed by Hon'ble The Supreme Court in the case of **Tofan Singh vs. State of Tamil Nadu**, 2021 (1) RCR (Crl.). No recovery was effected from him. Charges have been framed and the prosecution evidence is going on. The petitioner is involved in other cases also in which he is on bail. In this regard, he relies on the judgment passed by Hon'ble The Supreme Court titled as **Maulana Mohd. Amir Rashadi vs. State of U.P. and others**, (2012) 2 SCC 382.

3. The custody certificate filed by the learned State counsel is taken on record. As per the same, the petitioner is behind bars for the last 1 year 2 months 29 days.

4. Learned State counsel opposes the bail on the ground that the petitioner was specifically named in the disclosure statement of the co-accused. The transformer coils had been stolen by him alongwith the co-accused. There are other cases against the petitioner. However, he is unable to controvert the submissions with regard to the stage of the case and him being on bail in other cases.

5. Heard.

6. 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."

7. In view of the afore-referred judgments and facts and circumstances of the case that the petitioner has been in custody since 1 year 2 months 29 days; he is on bail in other cases registered against him; charges have been framed and the prosecution evidence is going on which is likely to take considerable time to conclude, his further incarceration would not serve any useful purpose, thus 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:-

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.
9. It is made clear that in case of any infraction 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

01.06.2023

Mehak

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