

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

214

CRM-M-17479-2023(O&M)
Date of decision: 21.09.2023

Sukhvir Singh @ Sukh Sahota

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Narinder S. Lucky, Advocate for the petitioner.

Mr. Manipal Singh Atwal, DAG, Punjab.

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.104 dated 20.06.2018, registered under Sections 307 and 34 IPC and Sections 25 and 27 of Arms Act, 1959 at Police Station Division No.2, District Ludhiana.
2. Learned counsel contends that the petitioner is in custody for about 9 months. His name surfaced on the basis of disclosure statement of co-accused, Sidhant Sehgal, made 1½ years after the incident, while he was in custody in FIR No.167 dated 22.09.2019 and as per which the role ascribed to the petitioner was that he along with one co-accused were standing outside the shop, when the injured was fired upon by him inside the shop of the complainant. The aforesaid co-accused has been granted bail by this Court vide order dated 08.08.2023. The wife of the petitioner was also co-accused, has been enlarged on bail by the trial Court, as also

another co-accused Sonu. The petitioner was not aware of the present case and had surrendered before the trial Court on 06.01.2023, after his return from abroad and has since been in custody. He is involved in three more cases, in which he is on bail. Charges were framed on 06.04.2023 and out of 24 witnesses, none has yet been examined. 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. The custody certificate dated 20.09.2023, filed by learned State counsel is taken on record, as per which, the petitioner is behind bars for 8 months and 14 days.

4. Learned State counsel opposes the bail on the ground that the petitioner had actively participated in the commission of offence, as has been stated by the co-accused in his disclosure statement and the motive lay with him inasmuch as there was a monetary dispute between wife of the petitioner and the complainant. He is involved in 3 more cases. He is however unable to controvert the submissions made regarding the stage of the trial, petitioner on bail in other cases and co-accused have 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.” 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 last 8 months and 14 days; on bail in other cases; co-accused have been granted bail; charges have been framed on 06.04.2023 and none out of 24 witnesses has been examined so far; 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.

21.09.2023
ashok

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No