

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

214

CRM-M-22329-2023
Date of decision: 09.05.2023

Israr

....Petitioner

Versus

State of Haryana

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Karan Singh, Advocate
for the petitioner
Mr. Praveen Bhadu, AAG, 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 of FIR No. 69 dated 27.02.2021, registered under Sections 379-A and 34 IPC at Police Station Gandhi Nagar, District Yamuna Nagar.
2. Learned counsel contends that the petitioner has been in custody for the last about 10 months having been arrested on 10.06.2022. Charges have been framed on 02.08.2021 but 3 out of 7 prosecution witnesses are yet to be examined. Complainant Sanjay Kumar and his wife PW-Reema remained unserved and as per order dated 17.04.2023, they have left the address of Yamuna Nagar and fresh summons have been issued at their Uttar Pardesh addresses

through the IO for their appearance before the trial Court. The allegations against the petitioner and his co-accused are of having snatched a mobile phone and Rs.5,000/-. His co-accused Achhar Pal @ Bhindi has been granted bail by this Court vide order dated 25.04.2023. There is no case pending against him, except that he was convicted in three cases wherein he has undergone his entire sentence. 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 9 months and 20 days.

4. Learned State counsel opposes the bail on the ground that there are specific allegations against the petitioner and Rs.1250/- were recovered from him. The mobile phone was recovered from the co-accused. However, he is unable to controvert the submissions with regard to the stage of the case, no other case pending against the petitioner and his co-accused having been granted bail.

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 facts and circumstances of the case, the observations made in the aforesaid judgment, and that the petitioner has been in custody for the

last 9 months 20 days; co-accused has already been granted regular bail; he is not involved in any other case; charges have been framed and out of 7 prosecution witnesses, 3 are yet to be examined; the trial is likely to take considerable time, his 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 any 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 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

09.05.2023

Mehak

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