

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-22765-2023 (O&M)

Date of decision: 11.05.2023

Sunil alias Chhinu

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Aakash Dalal, 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 FIR No.443 dated 16.12.2021, registered under Sections 379-A, 392 and 34 IPC (Sections 204 and 201 IPC added later on), at Police Station Asauda, District Jhajjar.

2. Learned counsel contends that the petitioner is 21 years old, has been in custody for the last about 1 year and 6 months. His name surfaced based on the disclosure statement of co-accused Ashok Kumar, who has been granted regular bail vide order dated 15.02.2023 (Annexure P-2) being in custody for 1 year and 2 months. Even co-accused Prince has been granted regular bail by this Court vide order dated 11.04.2023 (Annexure P-3). The recovery has already been effected from the petitioner. Charges were framed on 29.03.2022, however, only 3 out of 15 prosecution witnesses have been examined. There are 2 more cases against the petitioner, in which he is on bail. He relies on the judgment of Hon'ble The Supreme Court of India 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 mobile phone was recovered from the petitioner that was identified by the complainant and that there are 2 more cases, in which he is involved. He is however unable to controvert the submissions with regard to custody, stage of trial and co-accused Ashok Kumar and Prince having been granted bail after being in custody for 1 year 2 months and 1 year 4 months respectively.

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 1 year and 6 months; co-accused have been granted regular bail; he is on bail in two other cases registered against him; though the charges were framed on 29.04.2022, however, only 3 out of 15 prosecution witnesses have yet 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 11, 2023
M.Kamra

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