

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

228

CRM-M-22789-2023 (O&M)
Date of decision: 29.08.2023

Balwinder Kumar @ Mintu

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Karandeep S. Sidhu, Advocate for the petitioner.

Mr. Manipal Singh Atwal, DAG, Punjab.

Mr. Vikas Bishnoi, Advocate for
Mr. Rishu Mahajan, Advocate for the complainant.

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.147 dated 18.11.2022, registered under Sections 307, 324, 148, 149 IPC and Sections 25, 27, 54 and 59 of Arms Act, 1959 at Police Station Maqsudan, Jalandhar.
2. Learned counsel contends that the petitioner is in custody for more than 9 months. As per the allegations, the petitioner has been attributed an injury on the right hand of the complainant. The offence attracting Section 307 IPC i.e. a gun shot, has been attributed to co-accused Kala, which though had not caused any injury. Charges stand framed on 14.07.2023, however, none out of the total 16 prosecution witnesses has been examined. He is not involved in any other case.

3. The custody certificate dated 28.08.2023, filed by learned State counsel is taken on record, as per which, the petitioner is behind bars for 9 months and 2 days.

4. Learned State counsel opposes the bail on the ground that the petitioner had actively participated in the commission of offence. He is however unable to controvert the submissions made regarding the stage of the trial and the petitioner being not involved in any other case.

5. Learned counsel for the complainant submits that the petitioner has been attributed an injury on the right hand of the complainant.

6. Heard.

7. Considering the facts and circumstances of the case, in particular that the petitioner is in custody for last 9 months and 2 days; not involved in any other case; charges were framed on 14.07.2023 and none out of 16 prosecution 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.

29.08.2023
ashok

(AMAN CHAUDHARY)
JUDGE

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