

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

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CRM-M-23081-2023 (O&M)
Date of decision: 31.07.2023

Jatinder Singh @ Happy

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Abhilesh Vyas, 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 the grant of regular bail to the petitioner in case FIR No.128 dated 04.08.2022, registered under Sections 307, 379-B, 34 IPC (Section 201 IPC added later on) and Section 25 of the Arms Act at Police Station Kamboj, District Amritsar Rural.
2. Learned counsel contends that the petitioner is in custody for the last about 11 months. The allegations insofar as the offence under Section 307 IPC is concerned, the same is not attributed to the petitioner but to the co-accused. The motorcycle used in the commission of the offence, is not in the ownership of the petitioner. As per the allegations, the mobile phone that was allegedly snatched was thrown in the canal. Challan stands presented on 11.12.2022, however,

charges have not been framed. In all there are 21 witnesses. Petitioner is involved in 4 more cases, in which he is on bail. He places reliance 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 29.07.2023 filed by learned State counsel is taken on record. As per the same, the petitioner is behind bars for 10 months and 16 days.

4. Learned State counsel opposes the bail on the ground that the petitioner was sitting on the rear seat of the motorcycle and had snatched the mobile phone from the complainant while the other co-accused had fired the shot, which hit the thigh of the complainant. He is however unable to controvert the submissions regarding the stage of the case and petitioner 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". 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 10 months and 16 days; is on bail in other cases; though challan was presented on 11.12.2022, however, charges are yet to be framed; in all there are 21 witnesses, the trial is likely to take considerable time and thus his further incarceration would not serve any useful purpose, as such 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 him 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.

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 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

31.07.2023

S.Sharma(syr)

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