

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

219

CRM-M-24099-2023

Date of decision: 17.05.2023

Pawan Kumar @ Budhu

....Petitioner

Versus

State of Punjab

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. F. S. Vrik, Advocate
for the petitioner

Mr. M. S. Nagra, AAG, Punjab

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. 116 dated 21.05.2022, registered under Sections 307, 341, 323, 506 and 34 IPC at Police Station Tripuri, District Patiala.

2. Learned counsel contends that the petitioner has been in custody for the last one year. The FIR was registered against 5-6 unknown persons who had allegedly caused injuries to co-prisoner Talwinder Singh. The name of the petitioner has surfaced in the statement of co-prisoner Harnam Singh @ Kuku and Gurjinder Singh @ Kaka as per which he was stated to have caused injuries with one *danda* on the left leg of Talwinder Singh which as per the MLR, Annexure P-6, is simple in nature. Challan has been presented but charges are yet to be framed and in all, there are 21 prosecution witnesses. Co-accused Jatinder Pal Singh @ Jatinder Singh @ Sher Singh who has also attributed an iron blow on the left leg of the said co-accused Talwinder Singh has been granted regular bail by this

Court vide order dated 04.05.2023, having been in custody for more than 11 months. The petitioner is involved in 2 other cases in which he is on bail. 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.

4. Learned State counsel opposes the bail on the ground that the petitioner alongwith the co-prisoners had inflicted injuries on Talwinder Singh. There are 2 other FIRs against the petitioner. However, he is unable to controvert the submissions with regard to the custody, stage of the case, injury attributed to the petitioner being simple in nature and the 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 afore referred judgment and facts and circumstances of the case that the petitioner has been in custody since 1 year; he is on bail in other cases registered against him; co-accused has already been granted bail; though, challan has been presented, however, charges are yet to be framed and there are 21 prosecution witnesses in total; the trial is likely to take considerable time, his further 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

17.05.2023

Mehak

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