

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

215CRM-M-25702-2023(O&M)
Date of decision: 20.09.2023

Mangal Singh @ Manga...Petitioner

Versus

State of Haryana...Respondent

CRM-M-34919-2023(O&M)

Lucky @ Lakhwinder...Petitioner

Versus

State of Haryana..Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Nipun Bhardwaj, Advocate
for the petitioners.

Mr. Baljinder Singh Virk, Sr. DAG, Haryana.

AMAN CHAUDHARY, J.

1. Prayer in the present petitions filed under Section 439 Cr.P.C.
is for grant of regular bail to the petitioners in FIR No.312 dated
25.11.2021, registered under Sections 307, 34 IPC and Section 25 of
Arms Act (Section 29 of Arms Act added later on), at Police Station
Rajound, District Kaithal.
2. Learned counsel contends that the petitioners are in custody
for 1 year and almost 10 months. As per the allegations against them, the
injuries attributed to the petitioners were caused on non-vital body parts,

they being thigh and leg. Charges stood framed on 15.10.2022 and the complainant has been examined, who has not supported the prosecution version. Besides him 4 other prosecution witnesses have been examined and 9 remain to be examined. Petitioner-Mangal Singh is involved in three more cases, under the IPC and Arms Act and he is on bail in two cases. Petitioner-Lucky is involved in two more cases under the IPC and Arms Act in one of which he is on bail. Reliance is placed 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 certificates dated 19.09.2023, filed by learned State counsel are taken on record, as per which, the petitioners are behind bars for 1 year, 9 months and 21 days.

4. Learned State counsel opposes the bail on the ground that there are specific allegations against the petitioners of having actively participated in the commission of offence whereby they fired at the complainant and the injured. The weapons have been recovered from them. He is however unable to controvert the submissions made regarding the stage of the trial, complainant has been examined and status of cases pending against them.

5. Heard.

6. Hon'ble The Supreme Court 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 cases, in particular that the petitioners are in custody for last 1 year, 9 months and 21 days; on bail in some cases; injuries attributed to them are on non-vital body parts; charges were framed on 15.10.2022 and only 5 witnesses out of 14, have been examined so far including the complainant, the trial is likely to take a considerable time, thus their further incarceration would not serve any useful purpose, the present petitions for grant of regular bail deserve to be allowed.

8. As a result, the present petition is allowed. The petitioners are ordered to be released on regular bail, subject to their furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned and subject to their not being required in any other case. The petitioners shall abide by the following conditions:-

- (i) The petitioners will not tamper with the evidence during the trial.
- (ii) The petitioners will not pressurize/ intimidate the prosecution witnesses.
- (iii) The petitioners will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
- (iv) The petitioners shall not commit an offence similar to the offence of which, they are accused, or for commission of which they are suspected of.

- (v) The petitioners 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 petitioners shall not in any manner misuse their liberty.
- (vii) The petitioners shall furnish their addresses 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 petitioners seek 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 petitioners 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 petitioners.

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 petitioners 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.

11. Photocopy of this order be placed on the connected file.

20.09.2023
ashok

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No