

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

237

CRM-M-28952-2023

Date of decision : 05.07.2023

Noman

.....Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr.Sandeep Yadav, Advocate for the petitioner

Mr.Dhruv Sihag, 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. 146 dated 21.04.2019, registered under Sections 379-B and 34 of IPC and Section 25, 54, 59 of the Arms Act at Police Station Dharuhera, District Rewari.

2. Learned counsel contends that petitioner has been in custody for the last about 3 years, 5 months, having been arrested on 10.02.2020. His name surfaced based on the disclosure statement of co-accused Baldev, who has been granted bail. Charges have been framed on 30.09.2021, however, out of 30 prosecution witnesses, only 3 have been examined including the complainant, who is not supporting the case. Co-accused, namely, Satnam Singh, Harun @ Chaudu, Shakir and Shankar have also been granted bail. The petitioner is involved in other cases, in few of which, he is on bail. He relies on the judgment passed by Hon'ble The Supreme Court titled as **Prabhakar Tewari vs. State of U.P. and another** 2020(1)

RCR (Criminal) 831.

3. Learned State counsel opposes the bail on the ground that the petitioner had actively participated in the commission of offence and there are ten more FIRs against him. However, he is unable to controvert the submissions with regard to the custody, stage of the case, co-accused having been granted bail and the petitioner being on bail in few of the cases, registered against him.

4. Heard.

5. Hon'ble The Supreme Court in the case of **Maulana Mohd. Amir Rashadi vs. State of U.P. and others**, 2012(2) SCC 382 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** (supra), 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."

6. Considering the facts and circumstances of the case that the petitioner has been in custody for the last 3 years, 3 months and 15 days; co-accused have already been granted bail; though, there are other cases against him, but in few of them, he is on bail; out of 30, only 3 PWs, including the complainant, who did not support the prosecution case, have been examined as yet; the trial is likely to take considerable time, thus 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 on his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned and also 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 not leave the country without prior permission of the trial Court.
9. 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.

05.07.2023
gsv

(AMAN CHAUDHARY)
JUDGE

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