

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

224

CRM-M-27254-2023 (O&M)

Date of decision: 21.08.2023

Gurjiwan Singh @ Jiwan

..Petitioner

Versus

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. BS Jatana, Advocate for the petitioner.

Mr. HS Sullar, Sr. DAG, Punjab.

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 FIR No.0109 dated 05.08.2021, registered under Sections 364-A, 386, 506, 34 IPC and Sections 25 and 27 of the Arms Act (Sections 451 and 342 IPC added later on), at Police Station City Budhlada, District Mansa.

2. Learned counsel contends that the petitioner is in custody for last more than 2 years having been arrested on 06.08.2021. Recovery of Rs.5000/- stands effected from the petitioner. Co-accused Anoop Tigga @ Monti and Kuldeep Singh @ Angrej Singh have been granted regular bail by this Court vide orders dated 18.11.2022 and 09.12.2022 (Annexures P2 and P3). Charges were framed on 03.11.2021. However, the complainant is not coming forward for his examination. There are in all 14 witnesses but none has been examined. The petitioner is on bail in one more case registered against him. In this regard, 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. Status report on behalf of respondent-State and custody certificate dated 20.08.2023, filed by learned State counsel are taken on record, as per which, the petitioner is behind bars for 2 years and 11 days.

4. Learned State counsel opposes the bail on the ground that the petitioner is the main accused, who had pointed the pistol which stands recovered from him alongwith live cartridge and Rs.5000/-. He is however unable to controvert the submissions made regarding the stage of the trial, petitioner being on bail in one case and co-accused have been granted bail.

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 the possibility of fleeing away from the jurisdiction of the Court etc.”

7. Considering the facts and circumstances of the case, in particular that the petitioner is in custody for last 2 years and 11 days; on bail in another case pending against him; co-accused have been granted bail; charges were framed on 03.11.2021; none of the 14 prosecution witnesses has been examined; complainant is also not coming forward for his examination; 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.

21.08.2023
ashok

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No