

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

229

CRM-M-27532-2023 (O&M)

Date of decision: 26.07.2023

Gurwinder Singh alias Guri

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. K.S. Brar, Advocate for the petitioner

Mr. H.S. Sullar, Sr. DAG 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.25 dated 03.02.2023, registered under Sections 382, 379-B, 506, 148 and 149 IPC, at Police Station Dayalpura, District Bathinda.

2. Learned counsel contends that the petitioner is in custody for the last more than 5 months. The car allegedly snatched in the present case has been recovered in FIR No.15 dated 07.02.2020. As per allegations, after co-accused Sabar Alam had shown the kirpan and snatched the key of the vehicle, the co-accused Ram Rai Singh had taken it away. Both the abovementioned co-accused as well as one Manpreet Singh @ Sewki have been granted bail by the trial Court vide orders dated 20.06.2023, 18.04.2023 and 06.05.2023 respectively. The other co-accused namely Parkash, Sarban Kumar and Simrandeep have been granted anticipatory bail. Challan has been presented, however, charges have not been

framed. In all there are 17 prosecution witnesses. The petitioner is involved only in the case mentioned above, wherein 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 certificate dated 25.07.2023 has been filed by learned State counsel. As per the same, the petitioner is behind bars for the last 5 months and 12 days.

4. Learned State counsel opposes the bail on the ground that the petitioner had actively participated in the commission of the offence and is also involved in another case. He is however unable to controvert the submissions with regard to the stage of the case, co-accused having been granted bails and the petitioner is on bail in another case.

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."

7. Considering the facts and circumstances of the case, in particular that the petitioner is in custody for the last 5 months and 12 days; is on bail in another case; co-accused have been granted bail; challan already stands presented, however, the charges are yet to be framed; in all there are 17 prosecution witnesses, 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.

July 26, 2023
M.Kamra

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No