

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

Date of decision: 19.09.2023

CRM-M-6147-2023

..Petitioner

Versus

..Respondent

CRM-M-28322-2023

..Petitioner

Versus

..Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. A.S. Dhaliwal, Advocate for the petitioner
in both cases

Mr. Manipal Singh Atwal, DAG, Punjab

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.274, dated 05.12.2022, registered under Sections 370 (5), 120-B IPC and Section 81 of Juvenile Justice (Care and Protection of Children) Act, 2015, at Police Station Samana, District Patiala.

2. Learned counsel contends that the petitioners are in custody for about 9 months. They are named in the FIR and apprehended at the spot, however, no recovery was effected from them. They have been falsely implicated in the present case. Co-accused Lalit Kumar has been granted regular bail by this Court vide order dated 31.08.2023. Charges

have been framed on 30.08.2023 but out of 20 prosecution witnesses, none has been examined, since all of them are official witnesses as such there is no possibility of they getting influenced. Petitioner-Harpreet Singh is not involved in any other case and petitioner-Baljinder Singh @ Deep is involved in three more cases under the Negotiable Instruments Act, 1881 and Immigration Act. 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 of petitioner-Baljinder Singh @ Deep dated 19.09.2023, filed by learned State counsel is taken on record, as per which, the petitioner is behind bars for 9 months and 13 days.

4. Learned State counsel opposes the bail on the ground that the petitioner-Harpreet Singh is owner and driver of the ambulance, which was recovered from the spot and petitioners were actively involved in the offence. He is however unable to controvert the submissions made regarding the custody of petitioner-Harpreet Singh, stage of the case, co-accused has been granted bail and petitioner-Harpreet Singh not being involved in any other 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. Keeping in view of the facts and circumstances of the case, in particular that the petitioners are in custody for about 9 months; petitioner-Harpreet Singh is not involved in any other case; co-accused has been granted bail; charges have been framed on 30.08.2023; none out of 20 prosecution witnesses has been examined so far; 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 deserves 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 an 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 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 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 cases and the trial would proceed independently of the aforesaid observations.

11. A copy of this order be placed on the file of connected case.

19.09.2023
Ankur

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No