

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

217

CRM-M-31059-2023

Date of decision: 07.07.2023

Satbir Gill

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Subhash Kumar, 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. 36 dated 30.03.2022, registered under Sections 420, 406, 120-B of the Indian Penal Code, 1860 (Sections 379-B, 467, 468, 482, 170 and 171 IPC added later on) at Police Station Shahpur Kandi, District Pathankot.
2. Learned counsel contends that petitioner has been in custody for the last about 1 year 3 months. He was not named in the FIR. There is no recovery that has been effected from him. The concession of bail has been granted to co-accused namely Tarsem Singh and Manjeet Singh after a custody of 9 months each and co-accused Ashwani Kumar after being in custody for 1 year 1 month. Charges were framed on 27.10.2022, however, none out of 22 PWs have been examined. The petitioner is involved in three more cases, in two of which, he is on bail. In this regard, reliance is placed on the judgment passed by Hon'ble The Supreme Court titled as **Maulana Mohd. Amir Rashadi vs. State of U.P. and others**, 2012(2) SCC 382.

3. The custody certificate dated 06.07.2023, filed by the learned State counsel is taken on record. As per the same, the petitioner is behind bars for the last 1 year 2 months 26 days.

4. Learned State counsel opposes the bail on the ground that the petitioner was identified by the complainant being one of the persons who had taken money from him and is involved in 3 more cases. However, he is unable to controvert the submissions with regard to stage of the case, co-accused is granted bail, no recovery has been effected from the petitioner and he being on bail in two of the three cases registered against him.

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 has been in custody for the last 1 year 2 months 26 days; no recovery has been effected from him; co-accused have been granted bail; charges have been framed but out of 22 PWs, none have yet been examined; the trial is likely to take considerable time, thus, his further incarceration would not serve any useful purpose, as such 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:-

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.
9. It is made clear that in case of any infraction 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.

07.07.2023

Mehak

(AMAN CHAUDHARY)
JUDGE

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