

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

234

CRR-1614-2022 (O&M)

Date of decision: 07.08.2023

Sourabh

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Anshuman Dalal, Advocate for the petitioner

Mr. Baljinder Singh Virk, Sr. DAG Haryana

AMAN CHAUDHARY. J.

1. The challenge in the present revision petition is to the order dated 04.07.2022 passed by learned Additional Sessions Judge, Jhajjar, dismissing the appeal filed by the petitioner against the order dated 25.05.2022 passed by learned Principal Magistrate, Juvenile Justice Board, Jhajjar declining bail to the petitioner in case FIR No.275 dated 26.08.2020 registered under Sections 302, 34 and 120-B IPC and Section 25 of the Arms Act at Police Station Beri, District Jhajjar.

2. Learned counsel contends that the petitioner is in custody for the last 2 years and 11 months. His name surfaced initially based on disclosure statement of co-accused Deepak, who was named in the FIR and is in custody. Petitioner was 17 years old at the time of commission of offence. Co-accused Pankaj has been granted bail by this Court vide order dated 07.05.2022, Annexure P-2. As per the allegations, all the co-accused had taken the deceased Sonu to the fields, wherein he was shot. The fatal injury has been attributed to the co-accused, whereas the injury on the leg of the deceased has been attributed to the petitioner.

Charges were framed on 12.08.2021, however, only 8 out of 21 witnesses have been examined. There are 3 cases against the petitioner, out of which, in one he has been acquitted, in the other he was released after due admonishing and is on bail in the third FIR. He places reliance 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. Learned State counsel has referred to the status report dated 16.02.2023 and affirms the custody period. He opposes the petition on the ground that the petitioner was attributed specific role in the disclosure statement and the firearm used was recovered corresponding to the injury as also the empties recovered matched therewith. He is however unable to controvert the submissions regarding the stage of the case, co-accused having been granted bail and the status regards other cases.

4. Heard.

5. Hon'ble The Supreme Court of India 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".

6. Considering the facts and circumstances of the case, in particular that the petitioner is in custody for 2 years and 11 months; co-accused has been granted bail by this Court; on bail in other FIR; charges stood framed on 12.08.2021, however, only 8 out of 21 witnesses have yet been examined; the trial

is likely to take considerable time and thus his further incarceration would not serve any useful purpose, as such the present petition deserves to be allowed.

7. As a result, the present petition is allowed and the order dated 04.07.2022 passed by Additional Sessions Judge, Jhajjar, dismissing the appeal filed by the petitioner against the order dated 25.05.2022 passed by Principal Magistrate, Juvenile Justice Board, Jhajjar is set aside. 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 him 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.

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.

(AMAN CHAUDHARY)
JUDGE

07.08.2023
S.Sharma(syr)

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