

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

(243)

CRM-M-33619-2023

Date of Decision: 08.11.2023

Ankur @ Rinku

...Petitioner

Vs

State of Haryana

...Respondent

CORAM : HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. G.S. Sandhu, Advocate for the petitioner.

Mr. Jagdish Manchanda, Addl. A.G, Haryana.

AMAN CHAUDHARY, J (ORAL)

1. Prayer in the present second petition filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in case FIR No.391 dated 05.10.2021, registered under Sections 392, 397, 379-B, 201, 120-B IPC and Sections 25, 54 and 59 of Arms Act, 1959 at Police Station Nissing, District Karnal.

2. Learned counsel contends that the petitioner is in custody for 02 years and about a month. His name surfaced based on the false implication. He is in custody in another case when his disclosure statement was got recorded regarding his involvement in the present case. The recovery shown to have been effected from him, is a planted one. Charges were framed on 19.09.2022 and out of 25 witnesses, 07 witnesses have been examined, who have not supported the prosecution version, statements of whom have been appended as Annexures P1 to P5, P8 and P9. He is involved in 07 more cases, wherein he is on bail. 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. As per custody certificate dated 07.11.2023 has been filed by learned State counsel, the petitioner is behind bars for 02 years and 17 days.

4. Learned State counsel opposes the bail on the ground that the petitioner had actively participated in the commission of offence and a recovery of ₹2,99,500/- as also a pistol alongwith 03 live cartridges was effected from him pursuant to his disclosure statement made while in custody in another case. He is however unable to controvert the submissions with regard to stage of the case and 07 witnesses having not supported the case of prosecution as also the petitioner being on bail in other cases.

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." Reiterating in **Prabhakar Tewari vs. State of UP and another**, (2020) 11 SCC 648, it was observed that, "The offence alleged no doubt is grave and serious and there are several criminal cases pending against the accused. These factors by themselves cannot be the basis for refusal of prayer for bail."

7. Considering the facts and circumstances of the case, in particular that the petitioner is in custody for the last 02 years and 17 days; on bail in the other cases; charges were framed on 19.09.2022 but only 7 out of 25 prosecution witnesses including the material ones' have been examined; 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.

(AMAN CHAUDHARY)
JUDGE

08.11.2023
Hemant

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