

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

225

CRM-M-34417-2023 (O&M)

Date of decision: 24.07.2023

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..Petitioner

Versus

State of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Jai Singh Yadav, Advocate for the petitioner.

Mr. Vikrant Pamboo, Sr. DAG, Haryana.

AMAN CHAUDHARY, J.

1. The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.46 dated 06.05.2012, registered under Sections 395, 397, 412, 471 IPC and Sections 25, 54, 59 of Arms Act, at Police Station Sadar Rewari, District Rewari.

2. Learned counsel contends that the petitioner is in custody for the last 10 months. He has been falsely implicated in the present case. The only evidence against him is the disclosure statement of co-accused Mushtaq. Complainant stands examined as PW1 on 25.05.2023 (Annexure P1) wherein he has stated in his examination-in-chief that the petitioner and one co-accused Ansar, who were present in the Court, were not the assailants who had snatched the mobile phone, money and truck. There are 17 more witnesses to be examined. He is involved in other 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. Learned State counsel opposes the bail on the ground that the allegations leveled by co-accused in his disclosure statement that the petitioner had also actively participated in the commission of the crime and that there is one case against him under Section 395 IPC and Arms Act and two under Section 174A IPC. He is however unable to controvert the submissions made regarding the custody, stage of the trial and in so far as the statement of the complainant is concerned.

4. Heard and perused the file.

5. 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.”

6. Considering the facts and circumstances of the case, in particular that the petitioner is in custody for the last about 10 months; on bail in the other cases; statement of the complainant has been recorded; there are 17 more witnesses, who remain to be 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.

7. 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.

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.

24.07.2023
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(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No