

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

225

CRM-M-34651-2023 (O&M)
Date of decision: 25.07.2023

Deepak @ Halwai

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Kartik Khicher, Advocate for the petitioner

Mr. Dhruv Sihag, AAG Haryana

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.171 dated 15.04.2020, registered under Sections 397, 506 and 34 IPC (Sections 302 and 188 IPC and Section 25 of Arms Act added later on), at Police Station Azad Nagar, District Hisar.
2. Learned counsel contends that the petitioner is in custody for about 3 years and 3 months. As per the FIR, the attribution to him is of having given an iron rod blow to the deceased, with no specific body part mentioned. 2 co-accused namely Suraj @ Bachi and Ajay @ Malai have been granted bail by this Court vide orders dated 17.04.2023 and 04.07.2023 (Annexures P-8 and P-9), out of whom Ajay @ Malai was attributed a role similar to the one assigned to the petitioner. Out of 18 prosecution witnesses, 7 have been examined, including the partial examination of the complainant. There is one more case against the

petitioner, however, 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. The custody certificate dated 24.07.2023 has been filed by learned State counsel. As per the same, the petitioner is behind bars for the last 3 years, 3 months and 9 days.

4. Learned State counsel opposes the bail on the ground that there are specific allegations against the petitioner of having inflicted injuries to the deceased. He is however unable to controvert the submissions with regard to stage of case, co-accused including similarly situated co-accused Ajay @ Malai having been granted bail and the petitioner being on bail in another 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. Considering the facts and circumstances of the case, in particular that the petitioner is in custody for the last 3 years, 3 months and 9 days; is on bail in another case; co-accused have already been granted bail; out of 18 prosecution witnesses, only 7 have yet 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

July 25, 2023
M.Kamra

Whether speaking/reasoned

:

Yes / No

Whether reportable

:

Yes / No