

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

225

CRM-M-36121-2023 (O&M)

Date of decision: 31.08.2023

Brij Paul

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Karambir Singh Kahlon, Advocate for the petitioner

Mr. Manipal Singh Atwal, DAG Punjab

AMAN CHAUDHARY. J.

1. Prayer in the present petition filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in case FIR No.27 dated 13.02.2022, registered under Sections 307, 323, 341, 148, 149, 120-B and 506 IPC, at Police Station Division No.3, Police Commissionerate, Ludhiana, District Ludhiana.

2. Learned counsel contends that the petitioner is in custody for about 5 months. His name surfaced based on the confessional statements made by co-accused, who alongwith him were accused in another FIR No.55 dated 17.03.2023, under Sections 307, 323, 327 read with Section 120-B IPC, which is inadmissible in evidence. The allegations against the petitioner are of having instructed the other co-accused to give beatings to the complainant, who is stated to be a whistleblower, however, during the police remand, no information to connect him to the present case could be elicited, as is reflected from Annexure P-3. The main allegations of the complainant were against one Rajesh Mehta, who

had stated had enmity with him but he has not been arraigned as an accused in the case. The petitioner is a Staff Waterate, a Class-III post, whose work is to compute the salaries of the staff of the Municipal Corporation. Challan was presented on 30.05.2023, however, charges have not been framed. In all there are 12 prosecution witnesses. Beside these two cases, he is not involved in any other case. 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 29.08.2023 has been filed by learned State counsel. As per the same, the petitioner is behind bars for 5 months.

4. Learned State counsel opposes the bail on the ground that it was on the instructions of the petitioner that the co-accused had inflicted injuries to the complainant and he is involved in one more FIR. He is however unable to controvert the submissions with regard to stage of the 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 5 months; implicated on the basis of confessional statements made in another case; challan stands presented on 30.05.2023, however, charges are yet to be framed; there are a total of 12

prosecution witnesses; 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

August 31, 2023
M.Kamra

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