

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

108+219

CRM-M-37393-2022 (O&M)
Date of decision: 01.03.2023

JAGDEEP ALIAS MONU

....Petitioner(s)

Versus

STATE OF HARYANA

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Sukhdeep Singh, Advocate for the petitioner

Mr. Tanuj Sharma, AAG Haryana

AMAN CHAUDHARY. J.

CRM-43854-2022

For the reasons stated in the application, same is allowed. Annexures P-8 to P-10 are taken on record subject to all just exceptions.

CRM-M-37393-2022

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in respect of FIR No.35 dated 05.02.2017, under Sections 307, 120-B, 34 of the IPC registered at Police Station Narwana City, District Jind.

Learned counsel contends that the petitioner is in custody for the last 1 year and 6 months having been arrested on 10.08.2021. He is not named in the FIR and his name surfaced based on disclosure statement of co-accused Kuldeep, who has been granted regular bail. The allegation against the petitioner are of having conspired with the co-accused, who had fired at the complainant Anil, who had received injuries. In all there are 38 witnesses out of whom only 8 witnesses including the material witnesses have been examined, who have not supported the case of the prosecution. Though there are other cases registered against the petitioner, however, he has been acquitted in four of them. In this regard he relies

on the judgment dated 16.01.2012 passed by Hon'ble The Supreme Court of India in Criminal Appeal No.159 of 2012 titled as **Maulana Mohd. Amir Rashadi Vs. State of U.P. and others, 2012(2) SCC 382.**

Learned State counsel opposes the bail on the ground that he was present at the spot and is involved in 8 other cases out of which in four he has been acquitted and convicted in two and two cases are pending. He is however unable to controvert the submissions made by learned counsel for the petitioner with regard to custody and stage of the trial.

Heard.

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.”

In view of the facts and circumstances of the case, the observations made in aforesaid judgment, and that the petitioner is in custody for the last 1 year and 6 months; he was not named in FIR and involved on basis of disclosure statement; though charges have been framed; in all there are 38 witnesses out of whom 8 witnesses including the material witnesses have been examined, who have not supported the case of the prosecution; the trial is likely to take a considerable time, his further detention behind bars would not serve any useful purpose, thus the present petition for grant of regular bail deserves to be allowed.

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 him not being required in any other case. The petitioner shall abide by the following conditions:-

- 1. The petitioner will not tamper with the evidence during the trial.
- 2. The petitioner will not pressurize/ intimidate the prosecution witnesses.
- 3. The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
- 4. 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.
- 5. 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.
- 6. The petitioner shall not in any manner misuse his liberty.
- 7. 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.
- 8. The petitioner shall deposit his passport, if any, with the Trial Court forthwith and in case, he does not have the passport, he shall furnish a specific affidavit in this regard.

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.

In view of the above, this Court makes it clarified that the observations made herein above are limited for the purpose of present proceedings and would not be construed as any opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

(AMAN CHAUDHARY)
JUDGE

March 01, 2023

S.Sharma(syr)

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