

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

219

CRM-M-35858-2023
Date of decision: 19.10.2023

Jony

..Petitioner

Versus

State of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Sandeep Kotla, Advocate for the petitioner.

Mr. Jagdish Manchanda, Addl. AG, Haryana.

AMAN CHAUDHARY, J.

1. Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.613, dated 18.07.2022, registered under Sections 148, 149, 307, 323, 324, 325, 365, 379-B, 506 and 120-B IPC at Police Station Chandni Bagh, District Panipat.

2. Learned counsel contends that the petitioner is in custody for 1 year and more than 02 months. As per the opinion of the Doctor, the injury attributed to him has not been declared as dangerous to life. The co-accused Shrikant, Narender and Shoib Chaudhary, who were also attributed to injuries to injured Jaswinder, have been granted bail by this Court vide order dated 01.06.2023, after being in custody for about 10 months, while co-accused Ajit @ Jeeta and Birender @ Sandu have been granted anticipatory bail. Though charges were framed on 18.04.2023, however, none out of 24 prosecution witnesses has been examined. The petitioner is involved in another FIR, relating to another incident that took

place on that very day between the same parties, wherein there was involvement of the aforesaid co-accused as well, in which he is on bail. 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 18.10.2023, filed by learned State counsel is taken on record, as per which, the petitioner is behind bars for 01 year, 02 months and 06 days.

4. Learned State counsel opposes the bail on the ground that the specific allegations of having inflicted injuries with a gandasi on the right side of the stomach of injured-Jaswinder Singh. However, he is unable to controvert the submissions with regard to the stage of the case, co-accused having been granted bail and the petitioner as well in another FIR.

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 last 01 year, 02 months and 06 days; on bail in another FIR; co-accused have been enlarged on bail; charges were framed on 18.04.2023, however, out of a total of 24

prosecution witnesses, none has been examined so far; 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

19.10.2023
Ankur

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No