

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

217CRM-M-39177-2022 (O&M)
Date of decision: 18.08.2023

Ajit @ Jeet...Petitioner

Versus

State of Haryana...Respondent

CRM-M-56021-2022 (O&M)

Jaibir @ Tinku...Petitioner

Versus

State of Haryana...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Sanjeev Majra, Advocate
for the petitioner in CRM-M-39177-2022.

Mr. Sunil Saharan, Advocate
for the petitioner in CRM-M-56021-2022.

Mr. Baljinder Singh Virk, Sr. DAG, Haryana.

AMAN CHAUDHARY, J.

CRM-28327-2023 in CRM-M-39177-2022

For the reasons mentioned in the application, same is allowed. Annexures P2 to P4 are taken on record, subject to all just exceptions.

Main Cases

- Prayer in the present petitions filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioners in FIR No.60 dated 28.02.2020, registered under Section 346 IPC (Sections 396, 302, 201 and 120-B IPC added later on), at Police Station Civil Line, District Hisar.

2. Learned counsel contends that the petitioners are in custody for about 3 years. It is a case of circumstantial evidence. The name of petitioner-Jaibir surfaced based on the disclosure statement of co-accused, Vishal and nothing has been recovered from him. Petitioner-Ajit got involved in the case, based on his alleged disclosure statement made in another FIR, in which he was arrested. However, no recovery except his own ATM card was effected from him. All the material witnesses have been examined. The two witnesses i.e. Rahul and Sanjay have not supported the prosecution while Balwan has identified two persons with whom they had last seen the deceased but they are not the petitioners. Out of 46 witnesses, 20 are still to be examined. There are two more cases against petitioner-Ajit, while one against petitioner-Jaibir. 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 of petitioner-Jaibir dated 17.08.2023, filed by learned State counsel is taken on record, as per which, the petitioner is behind bars for 2 years, 11 months and 11 days.

4. Learned State counsel opposes the bail on the ground that the petitioners had actively participated in the commission of crime. He is however unable to controvert the submissions made regarding the stage of the trial.

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 the possibility of fleeing away from the jurisdiction of the Court etc.”

7. Considering the facts and circumstances of the case, in particular that the petitioners are in custody for 2 years, 11 months and 11 days; their name surfaced based on disclosure statements; 20 witnesses, out of 46 remain to be examined; the trial is likely to take a considerable time, thus their further incarceration would not serve any useful purpose, the present petitions for grant of regular bail deserve to be allowed.

8. As a result, the present petition is allowed. The petitioners are ordered to be released on regular bail, subject to their furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned and subject to their not being required in any other case. The petitioners shall abide by the following conditions:-

- (i) The petitioners will not tamper with the evidence during the trial.
- (ii) The petitioners will not pressurize/ intimidate the prosecution witnesses.
- (iii) The petitioners will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
- (iv) The petitioners shall not commit an offence similar to the offence of which, they are an accused, or for commission of which they are suspected of.
- (v) The petitioners 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 petitioners shall not in any manner misuse their liberty.

- (vii) The petitioners shall furnish their 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 petitioners seek 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 petitioners 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 petitioners.

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 petitioners 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.

11. Photocopy of this order be placed on the connected file.

18.08.2023
ashok

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No