

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

231

CRM-M-38976-2023 (O&M)
Date of decision: 28.08.2023

Bohar Singh

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Ms. Riffi Bala Birla, 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.202 dated 07.09.2021, registered under Sections 452, 323, 379-B and 34 IPC, at Police Station City-I, Abohar, District Fazilka.

2. Learned counsel contends that the petitioner is in custody for about 9 months. He alleges false implication. There is a delay of about 38 hours in registration of the FIR. As per the allegations, the petitioner has been attributed an injury on the left wrist of the complainant with a baseball bat. Co-accused Gagan, against whom the allegations were of having called the complainant outside his house, upon which the injuries were caused by other co-accused including the petitioner and as per the supplementary statement of the complainant, Rs.40,000/- were snatched by him, was granted regular bail vide order dated 30.07.2023. Another co-accused Lovepreet, who is alleged to have been given a kirpan blow

on the left side of the head of the complainant, was declared innocent during investigation and co-accused Panju, alleged to have given a kirpan blow on the left shoulder, has been granted bail under Section 167(2) Cr.P.C. vide order dated 08.08.2022. Charges have been framed on 06.03.2023, however, out of 11 prosecution witnesses, none has been examined. The petitioner is not involved in any case under IPC. Though, there are several other FIRs registered against him under the NDPS Act, however, 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 26.08.2023 has been filed by learned State counsel. As per the same, the petitioner is behind bars for the last 8 months and 24 days.

4. Learned State counsel opposes the bail on the ground that there are specific allegations against the petitioner of having caused injuries to the complainant with a baseball bat and he is a habitual offender, there being 15 more FIRs against him, including 11 under the NDPS Act, out of which in 6 he has been convicted, 2 are under Gambling Act and 1 under Excise Act. He is however unable to controvert the submissions with regard to stage of the case, co-accused having been granted bail and the petitioner is on bail on other cases.

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.” Reiterating in **Prabhakar Tewari vs. State of UP and another**, (2020) 11 SCC 648, it was observed that, “The offence alleged no doubt is grave and serious and there are several criminal cases pending against the accused. These factors by themselves cannot be the basis for refusal of prayer for bail.”

7. Considering the facts and circumstances of the case, in particular that the petitioner is in custody for 8 months and 24 days; on bail in other cases; co-accused have been granted bail; charges were framed on 06.03.2023, however, none out of the 11 prosecution witnesses 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

August 28, 2023
M.Kamra

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