

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

238

CRM-M-39563-2023 (O&M)

Date of decision: 18.08.2023

Rajwinder Singh @ Raja

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Ms. Menka Gupta, Advocate for the petitioner.
Ms. Himani Arora, AAG, Punjab.

AMAN CHAUDHARY, J.

1. Prayer in the present petition filed under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in case FIR No.61, dated 03.07.2022, registered under Sections 379-B, 341 & 34 IPC (Section 201 IPC added later on) at Police Station Qadian, District Batala, Gurdaspur.

2. Learned counsel contends that the petitioner is in custody for about 07 months. The name of the petitioner did not figure in the FIR. He has been involved on the basis of disclosure statement of co-accused Aashish. Recovery stands effected. Though the contention is of false implication in the case. Charges were framed on 29.04.2023. Complainant stands examined, however, there are 12 more prosecution witnesses, who remain. The petitioner is involved in two more cases in which, he is on bail. 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 dated 17.08.2023 has been filed by learned State counsel. As per the same, the petitioner is behind bars for 06 months and 27

days.

4. Learned State counsel opposes the bail on the ground that the two mobile phones, money and Pan Card were snatched from the complainant and one mobile phone and *datar* have been recovered from the petitioner. He is however unable to controvert the submissions with regard to stage of the case and the petitioner is on bail in 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 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 petitioner is in custody for the last 06 months and 27 days; recovery has been effected; is on bail in other cases; charges have been framed, complainant has been examined, however, 12 witnesses still remain to be examined, 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 him 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

18.08.2023

Ankur

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