

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

205

CRM-M-39626-2023(O&M)
Date of decision: 22.09.2023

Sunil @ Sinha .
..Petitioner

Versus

State of Haryana
...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

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

Mr. Baljinder Singh Virk, Sr. DAG, 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 FIR No.355 dated 17.12.2020, registered under Sections 302 and 34 IPC and Section 25 of Arms Act, 1959 (Sections 201, 120-B IPC added and Section 34 IPC deleted later on), at Police Station Safidon, District Jind.
2. Learned counsel contends that the petitioner is in custody for 2 years and more than 8 months. He was not named in the FIR and his implication is based on disclosure statement of co-accused Hari Om, which was made in another case i.e. FIR No.9/202,1 wherein he was involved on account of a pistol having been recovered from him. No recovery has been effected from the petitioner. In the present FIR, co-accused Satish, Tejbir and Chain Singh have been specifically attributed of having fired at the deceased, besides them five more accused have been named and none of them have been arrested. Co-accused

Satender @ Monu has been granted regular bail by this Court vide order dated 17.04.2023, Annexure P-6. Charges were framed on 28.09.2021 and out of 34 prosecution witnesses, 15 have been examined. The complainant, PW-2, who is mother of the deceased, in her statement has reiterated the version as that in the FIR. The petitioner is involved in one more case, 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 21.09.2023, filed by learned State counsel is taken on record, as per which, the petitioner is behind bars for 2 years, 8 months and 9 days.

4. Learned State counsel opposes the bail on the ground that the petitioner has been specifically named by co-accused in his disclosure statement of having actively participated in the commission of offence and mobile phone was recovered from him. He is however unable to controvert the submissions made regarding the stage of the trial, petitioner being on bail in another case, complainant stands examined and co-accused has been granted bail.

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 2 years, 8 months and 9 days; on bail in another case; co-accused has been granted bail; charges were framed on 28.09.2021 and 15 out of 34 prosecution witnesses have been examined, including the complainant; 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.

22.09.2023
ashok

(AMAN CHAUDHARY)
JUDGE

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