

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

229

CRM-M-40139-2023(O&M)

Date of decision: 05.09.2023

Himanshu

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Akashdeep Singh, Advocate for the petitioner.

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

Mr. Vijay Pal, Advocate for the complainant.

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.920 dated 08.12.2022, registered under Sections 307, 323, 452, 34 IPC and Section 25 of Arms Act (Sections 148, 149, 201 IPC added in challan), at Police Station Rohtak City, District Rohtak.

2. Learned counsel contends that the petitioner is in custody for more than 6 months. Though the petitioner is alleged to have fired a shot but the same was hit the roof and no one was injured. It is a case of simple injury which was caused to the injured-complainant, as reflected in the MLR, wherein it has been mentioned only regarding pain and swelling on left side of forehead, swelling around the eye and ear and upper lip. However, the same has not been attributed to the petitioner. Two co-accused namely Bittu @ Chhinda and Naveen Kumar @ Monu have been

granted regular bail vide orders dated 15.07.2023 and 21.07.2023, Annexure P5. Challan was presented on 06.04.2023, however, charges are yet to be framed and in all there are 22 witnesses. There is one more case against the petitioner wherein 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. Learned State counsel opposes the bail on the ground that the petitioner had actively participated in the commission of offence and had fired a shot. He is however unable to controvert the submissions made regarding the custody, stage of the trial, petitioner being on bail in another case and co-accused have been granted regular bail.

4. Heard.

5. 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."

6. Considering the facts and circumstances of the case, in particular that the petitioner is in custody for last more than 6 months; on bail in other case; two co-accused have been granted regular bail; though challan has been presented on 06.04.2023, however, charges have not yet been framed and there are a total of 22 witnesses; 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.

7. 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.

8. 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.

9. 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.

05.09.2023
ashok

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No