

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

222

CRM-M-41215-2023 (O&M)
Date of decision: 20.09.2023

Surender @ Sintu

..Petitioner

Versus

State of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Sumit Sangwan, 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.0368 dated 23.12.2022, registered under Sections 148, 149, 307, 323, 341, 427, 506 IPC and Section 25 of Arms Act (Sections 120-B and 325 IPC added in challan), at Police Station Badhra, District Charkhi Dadri.
2. Learned counsel contends that the petitioner is in custody for more than 8 months. The allegation against him is of having done recce prior to the commission of offence by the other co-accused and weapon shown to be recovered from him has been planted. However, no overt act has been ascribed to him. The injury attracting Section 307 IPC has been attributed to co-accused Chanderbhan and Anoop @ Deva, who are in custody. Charges were framed on 04.07.2023 and out of 22 witnesses, only 2 official witnesses have been examined. He is involved in two more cases under the Excise Act and Sections 379, 411 IPC, 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. The custody certificate dated 19.09.2023, filed by learned State counsel is taken on record, as per which, the petitioner is behind bars for 8 months and 6 days.

4. Learned State counsel opposes the bail on the ground that the petitioner had facilitated the other co-accused to commit the offence by doing recce and weapon was also recovered from him. He is however unable to controvert the submissions made regarding the stage of the trial and petitioner being 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 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. Keeping in view the facts and circumstances of the case, in particular that the petitioner is in custody for last 8 months and 6 days; on bail in other cases; charges were framed on 04.07.2023 and out of a total of 22, only 2 prosecution witnesses have 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.

20.09.2023
ashok

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No