

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

236

CRM-M-41614-2023 (O&M)
Date of decision: 29.08.2023

Bashir Ahmed

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. D.S. Matya, Advocate for the petitioner

Mr. B.S. Virk, Sr. DAG Haryana

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.329 dated 04.11.2022, registered under Sections 148, 149, 323, 324, 427, 452, 506, 325 and 307 IPC, at Police Station Nagina, District Nuh.

2. Learned counsel contends that the petitioner aged 70 years old, is in custody for about 4 months. He alleges false implication. In the FIR, there was no specific injury attributed to him. However, in the supplementary statement recorded after 1 month of the registration of the FIR, the injured has stated that Shamsher and Shakil had caused two injuries on his head by farsa, while the petitioner has also been attributed a lathi blow on the head. Reference is made to the MLR, Annexure P-17, wherein only two lacerated wounds are shown, which correspond to the supplementary statement. Co-accused have been granted bail vide orders dated 13.04.2023, 01.05.2023, 03.05.2023, 29.05.2023, 20.06.2023,

23.06.2023, 3.07.2023, 13.07.2023 and 17.07.2023 by Additional Sessions Judge, Nuh and interim bail vide orders dated 24.07.2023 and 03.08.2023 by this Court. Challan was presented on 06.08.2023, however, charges have not been framed. In all there are 47 prosecution witnesses. There are 3 more cases against the petitioner, in 1 he has been acquitted and in the other two, 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 29.08.2023 has been filed by learned State counsel. As per the same, the petitioner is behind bars for 3 months and 19 days.

4. Learned State counsel opposes the bail on the ground that the petitioner had actively participated in the commission of offence and specific injury has been attributed to him on the head of the injured with a lathi. 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 in the 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. Keeping in view the facts and circumstances of the case, in particular that the petitioner, a 70 year old, is in custody for the last 3 months and 19 days;

on bail in other cases; co-accused have been granted bail; challan stands presented on 06.08.2023, however, the charges are yet to be framed; there are a total of 47 prosecution 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.

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 29, 2023
M.Kamra

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