

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

212

**CRM-M-44370-2022 (O&M)
Date of decision: 20.07.2023**

Vikas @ Vikki

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. J.S. Thind, Advocate for the petitioner

Mr. Vikrant Pamboo, Sr. DAG Haryana

AMAN CHAUDHARY. J.

1. The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in case FIR No.747 dated 05.11.2020, registered under Sections 114, 216, 302, 120-B and 34 IPC; Sections 30 and 25 of the Arms Act at Police Station Barwala, District Hisar.

2. Learned counsel contends that the petitioner is in custody for the last 2 years 8 months and 3 days. His name surfaced based on a disclosure statement of co-accused Ranbir, who has been attributed the fatal injury, which was caused with point .32 bore pistol. However, the recovery effected from the petitioner is a point .315 bore pistol. 8 other co-accused have been granted regular bail by this Court as also the trial Court. Out of 25 PWs, the complainant and 3 eye-witnesses have been examined, who have not supported the case of prosecution. Though, the

petitioner is involved in 3 cases which are under the Prisons Act, Arms Act and Excise Act, however, he is on bail in them. 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 petitioner had actively participated in the commission of the offence. He is however unable to controvert the submissions regarding the custody, stage of the case, material witnesses having not supported the prosecution case and petitioner being on bail in other cases.

4. Heard.

5 Hon'ble The Supreme Court of India 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 2 years, 8 months and 3 days; is on bail in other cases; co-accused have been granted bail; material witnesses having turned hostile; 21 witnesses are yet to be examined; the trial is likely to take considerable time and thus his further incarceration would not serve any useful purpose, as such 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 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.

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.

(AMAN CHAUDHARY)
JUDGE

20.07.2023

S.Sharma(syr)

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No