

IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

210

CRM-M-47887-2022 (O&M)

Date of decision: 16.05.2023

Gurwinder Singh

....Petitioner

Versus

State of Punjab

...Respondent

**CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY**

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Present : Mr. Navkiran Singh, Advocate for the petitioner

Mr. Manipal Singh Atwal, DAG Punjab

Mr. N.K. Vadehra, Advocate for the complainant

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**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.62 dated 24.07.2018, registered under Sections 452, 342, 307, 364, 323, 148, 149 IPC read with Sections 25, 54, 59 of Arms Act (Sections 201 and 212 IPC added later on), at Police Station Tibber, District Gurdaspur, Punjab.

2. Learned counsel contends that the petitioner is in custody for the last 1 year. It is a case of simple injury. As per allegations, offence under Section 307 IPC is not made out. A cross-version has already been recorded through a complaint dated 10.06.2021, Annexure P-3. There are 6 more witnesses to be examined. However, an application under Section 319 Cr.P.C. has been filed by the prosecution, therefore, the prosecution evidence shall recommence after its decision. The present case was adjourned for examination of the complainant, who has now been examined. Though the petitioner is involved in 4 more cases,

however, 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 15.05.2023 has been filed by learned State counsel. As per the same, the petitioner is behind bars for the last 12 months and 1 day.

4. Learned State counsel assisted by learned counsel for the complainant oppose the bail on the ground that there are allegations against the petitioner of having abducted Dayal Singh-complainant along with other co-accused and gun shots were fired on account of which, an injury was caused to Robert Masih. The petitioner remained a proclaimed offender from 16.01.2019 till 17.05.2022, when he was arrested. He is involved in 4 more cases. Learned State counsel is herein unable to controvert the submissions with regard to stage of trial including the fact that the complainant stands examined, an application under Section 319 Cr.P.C. has been filed which is pending and petitioner is on bail in the cases registered against him.

5. Heard.

6. 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."

7. In view of the afore-referred judgment and facts and circumstances of

the case, in particular that the petitioner is in custody for the 1 year and 1 day; he is on bail in all other cases; complainant stands examined; 6 more prosecution witnesses remain to be examined; the trial is likely to take a considerable time, his further incarceration would not serve any useful purpose, thus 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:-

1. The petitioner will not tamper with the evidence during the trial.
2. The petitioner will not pressurize/ intimidate the prosecution witnesses.
3. The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
4. 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.
5. 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.
6. The petitioner shall not in any manner misuse his liberty.
7. 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.
8. The petitioner shall deposit his passport, if any, with the Trial Court forthwith and in case, he does not have the passport, he shall furnish a specific affidavit in this regard.

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 above are limited for the purpose of present proceedings and would not be construed as any opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

(AMAN CHAUDHARY)  
JUDGE

May 16, 2023  
M.Kamra

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