

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

224

CRM-M-47575-2022 (O&M)
Date of decision: 06.09.2023

Dilraj Singh alias Raj alias Dilli

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Vikas Gupta, Advocate for the petitioner

Mr. Manipal Singh Atwal, DAG Punjab

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.86 dated 25.04.2022, registered under Sections 397, 307, 511 and 506 IPC (Section 120-B IPC added later on) and Sections 25 (6), 25 (7) of Arms Act, 1959 at Police Station City Tarn Taran, District Tarn Taran.

2. Learned counsel contends that the petitioner is in custody for 1 year and 3 months. He has been falsely implicated in the case. He was not even present at the spot as he was in the house of his relative, reliance in this regard is made to photographs, Annexure P-2. His name surfaced based on the supplementary statement of complainant, which was recorded after 55 days of the occurrence, as per which also the allegations against the petitioner are of standing outside the shop and no overt act has been attributed to him. There is no allegation that has come forth that the co-accused has also committed robbery. Charges have been

framed on 10.03.2023, however, out of 18 prosecution witnesses, none have been examined. The complainant was not coming forth to get his statement recorded, therefore, bailable warrants have been issued vide order dated 16.08.2023 to procure his presence, copy of which has been produced. There is one more case pending against the petitioner under Section 379-B IPC, besides two under NDPS Act. 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 05.09.2023 has been filed by learned State counsel. As per the same, the petitioner is behind bars for 1 year, 2 months and 13 days.

4. Learned State counsel submits that the petitioner had actively participated in the commission of offence and the recovery of motorcycle in the ownership of his father, one pistol, live cartridges and magazines have been effected from him. He is however unable to controvert the submissions with regard to stage of the case.

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. Considering the facts and circumstances of the case, in particular that the petitioner is in custody for 1 year, 2 months and 13 days; charges were framed on 10.03.2023, however, none out of the 18 prosecution witnesses has 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.

(AMAN CHAUDHARY)
JUDGE

September 06, 2023
M.Kamra

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