

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

211

CRM-M-54412-2021
Date of decision: 26.04.2023

SANDEEP @ SANDI

....Petitioner(s)

Versus

STAE OF HARYANA

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Ms. Veer Pal Kaur, Advocate
for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

AMAN CHAUDHARY. J.

1. Present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in respect of FIR No. 101 dated 18.03.2020, under Sections 148, 149, 307, 452 and 506 IPC and Section 25 of the Arms Act registered at Police Station Kalanaur, District Rohtak.

2. Learned counsel contends that the petitioner has been in custody for the last about 2 year 8 months, having been arrested on 11.09.2020. The allegations against the petitioner is of having caused injuries on the foot of the complainant by fire arm. However, during the pendency of the case, the complainant has since expired due to jaundice on 04.07.2021. The brother of the complainant has executed an affidavit of compromise dated 08.02.2023. Though, challan has been presented, however, charges have not been framed and in all, there are 39 prosecution witnesses. Though, the petitioner is involved in 8 other

cases, however, he is on bail in all of them. In this regard she relies on the judgment dated 16.01.2012 passed by Hon'ble The Supreme Court in Criminal Appeal No.159 of 2012 titled as **Maulana Mohd. Amir Rashadi vs. State of U.P. and others**, 2012(2) SCC 382.

3. Custody certificate filed by the learned State counsel is taken on record, as per which the petitioner has been in custody for the last 2 years 7 months and 15 days.

4. Learned State counsel opposes the bail on the ground that the allegations against the petitioner is of having injured the complainant by fire arm. However, he is unable to controvert the other submissions with regard to stage of the trial and that he is on bail in the other cases 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 facts and circumstances of the case, the observations made in aforesaid judgment, and that the petitioner has been in custody for the last 2 year 7 months 15 days; challan has been presented, however, charges have not yet been framed and there are 39 prosecution witnesses in all; the trial is likely to take considerable time, his further detention behind bars 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 clear that in case of any infraction of any 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, this Court makes it 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

26.04.2023

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