

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

234

CRM-M-48708-2023(O&M)
Date of decision: 03.10.2023

Sahil

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Pankaj Nanhera, Advocate and
Mr. Ajay Nain, Advocate for the petitioner.

Mr. Dhruv Sihag, AAG, Haryana.

AMAN CHAUDHARY, J.

1. Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.60 dated 28.02.2020, registered under Section 346 IPC (Sections 296, 216-A, 201, 302 and 120B IPC added later on), at Police Station Hisar Civil Lines, District Hisar.
2. Learned counsel contends that the petitioner is in custody for 3 years and about 1 month. It is a case of circumstantial evidence. His name surfaced based on the disclosure statements of co-accused Manoj, Monu and Ajit. The alleged recovery from him of the number plate is shown to be along with co-accused Krishan and was planted. All material witnesses have been examined, two of whom namely Rahul and Sanjay have not supported the prosecution version, while Balwan by way of material improvement in his statement has identified the petitioner as also co-accused Krishan, to be the last seen persons with the deceased, which

was not initially the case of the prosecution. However, that would be debatable at the time of trial. Co-accused Ajit @ Jeet and Jaibir @ Tinku have been granted regular bail by this Court vide order dated 18.08.2023, Annexure P6. Out of 46 prosecution witnesses, 20 are still to be examined. He is involved in two more cases, wherein 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 02.10.2023, filed by learned State counsel is taken on record, as per which, the petitioner is behind bars for 3 years, 1 month and 1 day.

4. Learned State counsel opposes the bail on the ground that the petitioner had actively participated in the commission of crime as is the case set up against him by the prosecution. He is however unable to controvert the submissions made regarding the stage of the trial, co-accused have been granted bail and petitioner being 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 possibility of fleeing away from the jurisdiction of the Court etc."

7. Considering the facts and circumstances of the case, in particular that the petitioner is in custody for 3 years, 1 month and 1 day; on bail in other cases; name surfaced based on disclosure statement; co-accused have been granted bail; 20 out of 46 prosecution witnesses remain to be 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.

03.10.2023
ashok

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No