

IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

212

CRM-M-51397-2022  
Date of decision: 02.05.2023

SURENDER

....Petitioner

Versus

STATE OF HARYANA

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

\*\*\*\*\*

Present : Mr. Subhash Kumar, 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 case of FIR No. 974 dated 27.11.2021, registered under Sections 147, 148, 149, 307, 420, 427, 506, 120-B IPC and Section 25 of Arms Act at Police Station Barwala, District Hiar.
2. Learned counsel contends that the petitioner has been in custody for the last about 1 year 4 months. As per the allegations against him, the fire arm injury is caused on the arm of the complainant. He further submits that as mentioned in the FIR, the said occurrence took place at 04:00 PM, however, the complainant got himself admitted for treatment at 11:00 PM. Relying on the MLR of the victim Sunil, Annexure P-2, he further submits that the injury could be self inflicted as well. Though, charges have been framed on 04.02.2023, the prosecution evidence is yet to commence and in all, there are 29 prosecution

witnesses. Though, petitioner is involved in two other cases, however, in one he was released on probation being minor and in one, he has been acquitted. In this regard he relies on the judgment passed by Hon'ble The Supreme Court titled as **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 the petitioner was named in the FIR and the injury caused to the victim has been attributed to him. The pistol and live cartridges were recovered from him. However, he is unable to controvert the submissions with regard to the custody and stage of the case.

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. 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 about 1 year 4 months; though, charges have been framed on 04.02.2023 but none out of 29 prosecution witnesses have yet been examined; the trial is likely to take considerable time, his incarceration would not serve any useful purpose, thus 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 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.

8. 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.

9. 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

02.05.2023

Mehak

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