

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

222

CRM-M-52035-2022(O&M)
Date of decision: 04.10.2023

Anil

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Lekh Raj Nandal, Advocate for the petitioner.

Mr. Baljinder Singh Virk, Sr. DAG, 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 FIR No.151 dated 02.03.2022, registered under Section 25 of Arms Act, 1959 and Sections 302 and 34 IPC (Sections 27, 54 and 59 of Arms Act and Section 120-B IPC added later on), at Police Station Shivaji Colony, Rohtak, District Rohtak.
2. Learned counsel contends that the petitioner is in custody for 1 year and almost 7 months. His name surfaced based on the disclosure statements of co-accused Sunil, Mohit and Sunny. The allegations of having fired upon Rohit @ Bajrang and Rajinder are against co-accused Ankit, who is in custody. The petitioner was neither at the spot nor there are any call details with regard to conversation between him and other co-accused. Similarly circumstanced aforesaid co-accused, who were also implicated based on disclosure statement and from whom also motorcycle

was recovered as from the petitioner, have been granted regular bail by the trial Court vide orders dated 13.07.2023, 15.06.2023 and 19.07.2023. Challan has been presented on 03.06.2022, however, charges are yet to be framed and in all there are 27 prosecution witnesses. He is involved in one more case under the Arms Act, wherein he is on bail. 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 04.10.2023 filed by learned State counsel is taken on record, as per which, the petitioner is behind bars for 1 year, 6 months and 27 days.

4. Learned State counsel opposes the bail on the ground that there is specific allegation against the petitioner as per the disclosure statement of co-accused of having conspired in commission of offence. He is however unable to controvert the submissions made regarding the stage of the trial, petitioner being on bail in another case and co-accused have been granted bail.

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 last 1 year, 6 months and 27 days; on bail in the other case; co-accused having been enlarged on bail; challan stood presented on 03.06.2022, but charges have yet not been framed and there are a total of 27 prosecution witnesses; 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.

04.10.2023
ashok

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No