

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

243

CRM-M-53792-2023

Date of Decision: 23.11.2023

Hariom alias Lucky

...Petitioner

versus

State of Haryana

...Respondent

CORAM : HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Partap Singh, Advocate for the petitioner.

Mr. Jagdish Manchanda, Addl. AG Haryana.

AMAN CHAUDHARY, J (ORAL)

1. Prayer in the present petition filed under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in case FIR No.355 dated 17.12.2020, registered under Sections 302 and 34 IPC and Section 25 of Arms Act (Sections 201 and 120-B IPC and Sections 54/59 of Arms Act added later on), at Police Station Safidon, District Jind, Haryana.

2. Learned counsel contends that the petitioner is in custody for 2 years and about 10 months. Co-accused Satish, Tejbir, Chain Singh, Parkash, Randhir, Pardeep, Karma and Bhira were named in the FIR. However, the petitioner came to be involved in the case based on disclosure statement of co-accused Sunil @ Sinha made in FIR No.09 dated 06.01.2021, registered under the Arms Act, wherein a .32 bore pistol was shown recovered from him as also the petitioner, who was also the accused in the said case. The commission of offence in the present case was with a .314 bore pistol, which was recovered from co-accused Satender @ Monu, who has been granted regular bail by this Court vide order dated 17.04.2023. No recovery has been effected from the petitioner in this case. Co-accused Sunil @ Sinha has also

been granted regular bail by this Court vide order dated 22.09.2023, Annexure P-11. As per the FIR, the attribution is specifically to co-accused Satish, Tejbir and Chain Singh of having fired at the deceased. Charges had been framed on 28.09.2021, however, out of 34 prosecution witnesses, only 15 have been examined. The complainant-PW2, who is mother of deceased, had appeared as PW2 and has reiterated the version of the FIR and not named the petitioner, Annexure P-2. She in her cross-examination stated that Hakikat, Hariom, Sunil and Satender were wrongly challaned. The petitioner is involved in only in one FIR as mentioned above under the Arms Act, 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 22.11.2023 has been filed by learned State counsel. As per the same, the petitioner is behind bars for 2 years, 10 months and 10 days.

4. Learned State counsel opposes the bail on the ground that the petitioner has specifically named by co-accused Sunil @ Sinha of having actively participated in the commission of offence. He is however unable to controvert the submissions with regard to stage of the case, petitioner being on bail in another case, complainant stands examined 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. Keeping in view the facts and circumstances of the case, in particular that the petitioner is in custody for the last 2 years, 10 months and 10 days; on bail in another case; co-accused have been granted bail; charges were framed on 28.09.2021 but only 15, including the complainant, out of a total of 34 prosecution witnesses have 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

23.11.2023
M.Kamra

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