

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

211

CRM-M-59125-2022

Date of decision: 17.04.2023

Suraj @ Bachi

....Petitioner(s)

Versus**State of Haryana**

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. K. S. Dhanora, Advocate
for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

AMAN CHAUDHARY. J.

The 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. 171 dated 15.04.2020, under Sections 397, 302, 307, 188, 506, 34 IPC and Section 25 of the Arms Act, 1959 registered at Police Station Azad Nagar, District Hisar.

Learned counsel contends that the petitioner has been in custody for the last about 3 years having been arrested on 15.04.2020. The petitioner has not attributed any injury to the deceased but to the co-accused Manish @ Malai with a rod. Further, at the time of the alleged incidence, the petitioner was 17 years and 08 months and was initially tried as a juvenile. Subsequently, he is now being tried as an adult. Only 5 out of 17 prosecution witnesses have been examined. The petitioner is involved in three more cases. 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.

Learned State counsel opposes the bail on the ground that the petitioner is not named in the FIR but was present at the time of the alleged occurrence and had inflicted injuries to the injured Mahinder. However, he is unable to controvert the other submissions with regard to the custody being 3 years and 2 days as per the custody certificate submitted and stage of the trial.

Heard.

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."

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 3 year and 2 days; only 5 out of 17 prosecution witnesses have been examined as yet; 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.

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, she does not have the passport, she shall furnish a specific affidavit in this regard.

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.

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

17.04.2023

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