

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

274

CRM-M-58867-2022 (O&M)

Date of decision: 20.04.2023

GURWINDER SINGH ALIAS RAJA

....Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. P.S. Punia, Advocate for the petitioner

Mr. H.S. Sullar, Sr. DAG Punjab

AMAN CHAUDHARY. J.

1. 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.161 dated 25.05.2022, under Sections 379-B(2), 34 and 341 of the IPC, registered at Police Station Sahnewal, District Ludhiana.

2. Learned counsel contends that the petitioner is in custody for the last almost 11 months. The allegations against him are of having snatched mobile phone. He is an HIV patient and had suffered injury for which he was treated in the jail. Co-accused Ajay Singh @ Ajay had been granted regular bail by this Court vide order dated 22.11.2022 on having been in custody for about 6 months. Though challan has been presented, however, charges are to be framed. In all there are 12 witnesses. There is one case against the petitioner, as was against the co-accused, who had been granted bail. In this regard he relies on the judgment dated 16.01.2012 passed by Hon'ble The Supreme Court of India in Criminal Appeal No.159 of 2012 titled as **Maulana Mohd. Amir Rashadi Vs. State of U.P. and others, 2012(2) SCC 382.**

3. Learned State counsel has produced the custody certificate dated 17.04.2023, which is taken on record. As per the same, the custody of the petitioner is 10 months and 29 days.

4. Learned State counsel opposes the bail on the ground that there is one more case of similar nature against the petitioner and that the alleged snatched mobile phone was recovered from him. He is however unable to controvert the submissions with regard to stage of the case and co-accused having been granted regular bail by this Court.

5. Heard.

6. 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."

7. In view of the facts and circumstances of the case, in particular the medical condition of the petitioner, he being HIV patient and is in custody for the last 10 months and 29 days; co-accused having been granted bail by this Court; though challan has been presented, however, charges are yet to be framed; in all there are 12 witnesses; the trial is likely to take a 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.

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 him 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.
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, 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

April 20, 2023

S.Sharma(syr)

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