

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

240

CRA-S-3344-2023 (O&M)
Date of decision: 20.11.2023

Sandeep @ Binda

..Appellant

Versus

State of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Narender Kaajla, Advocate for the appellant.

Mr. Jagdish Manchanda, Addl. AG, Haryana.

AMAN CHAUDHARY, J.

CRM-47836-2023

This application has been filed for condonation of delay of
28 days in filing the present appeal.

Notice of the application.

Mr. Jagdish Manchanda, Addl. AG, Haryana accepts notice
on behalf of the respondent-State and he has no objection, in case, the
delay is condoned.

For the reasons stated in the application, the same is allowed
and delay of 28 days in filing the present appeal is condoned.

CRA-S-3344-2023

1. Challenge in the present appeal is to the order dated
13.07.2023 passed by learned Additional Sessions Judge, Hisar, whereby
regular bail application filed by the appellant, was dismissed.

2. Learned counsel contends that the appellant is in custody for last 11 months. The present FIR is a counter blast to an FIR lodged by the sister-in-law of the appellant against the complainant under Sections 354, 354-A, 354-B, 506 and 509 IPC. Charges stand framed on 04.07.2023 but out of 13 prosecution witnesses, only 1 has been examined. He is involved in 16 other cases, where in 3 he has been acquitted, confessed in 5, which were under Section 174-A IPC and others are pending, in which 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. Learned State counsel opposes the bail on the ground that the appellant had previously been declared a proclaimed offender and there are specific allegations leveled against him in the FIR. He is, however, unable to controvert the submissions made regarding the custody, stage of the trial and the status of the cases as mentioned above.

4. Heard.

5. 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." Reiterating in **Prabhakar Tewari vs. State of UP and another**, (2020) 11 SCC 648, it was observed that, "The offence alleged no doubt is grave and serious and there are several criminal cases pending against the accused. These factors by themselves

cannot be the basis for refusal of prayer for bail.”

6. In view of the facts and circumstances of the case, in particular that the appellant is in custody for almost 11 months; is on bail in other cases; charges were framed on 04.07.2023 and only 1 prosecution witness out of 13 has 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 appeal deserves to be allowed.

7. As a result, the present appeal is allowed and order dated 13.07.2023 is set aside. The appellant 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 appellant shall abide by the following conditions:-

- (i) The appellant will not tamper with the evidence during the trial.
- (ii) The appellant will not pressurize/ intimidate the prosecution witnesses.
- (iii) The appellant will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
- (iv) The appellant 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 appellant 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 appellant shall not in any manner misuse his liberty.
- (vii) The appellant 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 appellant 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 appellant 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 appellant.

8. 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 appellant by this order.

9. 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.

20.11.2023
Ankur

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No