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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-209-2023

DECIDED ON: 20th MARCH, 2023

GURJASHANJEET SINGH @ GURSHARAN @ CHINI

PETITIONER

VERSUS

STATE OF PUNJAB

RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Veneet Sharma, Advocate
for the petitioner.

Mr. Mohit Chaudhary, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

The jurisdiction of this Court under Section 439 of the Code of Criminal Procedure, 1973 has been invoked for grant of regular bail to the petitioner in case FIR No. 241, dated 15.12.2018, under Sections 302, 450, 34 of the Indian Penal Code, 1860 (for short 'IPC') and Sections 25 and 27 of Arms Act, 1959, registered at Police Station Islamabad, Amritsar City, District Police Commissionerate Amritsar.

Learned counsel for the petitioner has also drawn attention of this Court to an order dated 14.11.2022 (Annexure P-2) passed in CRM-M-3360-2022, whereby the co-accused Amritpal Singh @ Ammu has already been granted concession of bail. The petitioner is also at parity with co-accused as the same allegations have been alleged against him.

Learned State counsel has produced the custody certificate,

which is taken on record. According to the custody certificate, the petitioner is behind the bars for the last 4 years, 2 months and 13 days, though, he is involved in various other cases out of which, in two cases he has been acquitted. It has been further stated by learned State counsel that in 3 other cases, he is on production warrants by the Court.

Learned counsel for the petitioner has placed reliance upon the judgment rendered by the Apex Court in the case of “Maulana Mohd. Amir Rashadi vs. State of U.P. And another”, 2012 (2) SCC 382 to contend that the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other cases. The relevant extract of the judgment is reproduced hereinabove:-

“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.”

Heard learned counsel for the parties at length.

Considering the custody period suffered so far by the petitioner i.e., 4 years, 2 months and 13 days wherein no specific injury has been attributed to the petitioner and in fact no active role has been attributed to the petitioner and he has been roped merely on the basis of disclosure statement of the co-accused as well as in view of the law laid down by the Apex Court in the case of Maulana Mohd. Amir Rashadi's case (Supra), this Court is of the considered view that no fruitful purpose would be served by keeping the petitioner behind the bars.

In light of the above, the petitioner is directed to be released

on regular bail on his furnishing personal and surety bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, concerned.

The present petition is, hereby, allowed.

However, it is made clear that nothing observed hereinabove, shall have any bearings on the merits of the trial.

(SANDEEP MOUDGIL)
JUDGE

20th MARCH, 2023

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| 1. Whether speaking/ reasoned : | Yes / No |
| 2. Whether reportable : | Yes / No |