

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

201

CRM-M-5175-2024
Date of decision: 15.03.2024

Vinod Kohi ..Petitioner

Versus

State of Haryana ..Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Sahil Choudhary, Advocate for the petitioner.

Mr. Jagdish Manchanda, Addl. AG, Haryana.

AMAN CHAUDHARY, J.

1. Prayer in the present 2nd petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in FIR No.78 dated 16.02.2022, registered under Sections 403, 406, 409, 420, 467, 468, 471 IPC, at Police Station Babin, District Kurukshetra.
2. Learned counsel contends that the petitioner is in custody for the last 1 year and about 9 months. He was not a signatory to the agreement in question. The main accused Kamal Kohli alias Kamal Kumar Kohli has been granted bail vide order dated 04.01.2024. The offences are triable by Magistrate. Charges were framed on 13.12.2022, however, out of 11 prosecution witnesses, only 6 have been examined so far. The complainant is not coming forward for deposition, despiteailable warrants having been issued against him. Reference in this regard is made to the order dated 01.12.2023. The supplementary challan has been presented only under Section 406 and 420 IPC and charges are yet to be framed. An application has been filed under Section 319 Cr.P.C. to summon Ram Karan son of

Jagdish. The petitioner is involved in 16 cases under the IPC, wherein 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. The custody certificate dated 14.03.2024, filed by learned State counsel is taken on record, as per which, the petitioner is behind bars for 1 year, 8 months and 27 days.

4. Learned State counsel opposes the bail on the ground that there are specific allegations levelled against the petitioner of having been involved in the commission of offence alongwith the other co-accused Kamal Kohli alias Kamal Kumar Kohli. He is however unable to controvert the submissions made regarding the stage of the case, co-accused has been granted bail as also the petitioner being on bail in other cases.

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." 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."

7. Considering the facts and circumstances of the case, in particular that the petitioner is in custody for last 1 year, 8 months and 27 days; on bail in other cases; co-accused has been granted bail; despite having been issued bailable warrants, complainant did not put in appearance before the trial Court; it is a case of Magisterial trial; though charges have been framed on 13.12.2022, but out of a total of 11 prosecution witnesses, only 6 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, she is an accused, or for commission of which she 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 her liberty.
- (vii) The petitioner shall furnish her 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.
- (x) The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the cases mentioned in this case.
- (xi) The petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.3,00,000/- and deposit the same with the trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.
- (xii) The petitioner shall file an affidavit with regard to the immovable properties owned by him before the trial Court and shall not alienate the same during the pendency of the trial.

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

15.03.2024
Hemant

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