



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

201

CRM-M-29939-2023 (O&M)

Date of decision: 14.08.2024

Sahil @ Sahil Kathuria @ Tinku

..Petitioner

Versus

State of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Namish Sodhi, Advocate for the petitioner.

Ms. Vibha Tewari, AAG, Haryana.

AMAN CHAUDHARY, J. (Oral)

1. Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in FIR No.628 dated 18.06.2022 registered under Section 22 of NDPS Act (Sections 22(c) and 29 of NDPS Act added later on), at Police Station Barwala, District Hisar.
2. Learned counsel contends that the petitioner was implicated in the present case based on disclosure statement of co-accused Kuldeep, whose name was further disclosed by Raj Kumar, from whom the alleged contraband had been recovered. He has been falsely implicated in the case. No recovery has been effected from him. This Court granted the petitioner interim bail vide order dated 26.07.2023 and in compliance of order dated 18.05.2024 regarding his conduct during the period of interim bail, affidavit dated 13.07.2024 has been filed by Deputy Superintendent of Police, Barwala, where in para 4 it has been specifically stated that during the said period, he has been regularly appearing except on the date when exemption had been granted and in para 5 that during this period, he



has not been found to be involved in any other criminal case. However, in the other two previous cases, 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. None out of 27 prosecution witnesses has been examined, despite the fact that charges were framed on 01.06.2023.

3. Learned State counsel opposes the bail on the ground that commercial quantity of contraband was recovered from the co-accused of the petitioner, who was apprehended based on the disclosure statement of other co-accused. She is however unable to controvert the submissions made regarding the petitioner being not involved in any other criminal case during the period of interim bail granted to him and on bail in the two cases.

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."

6. Considering the facts and circumstances of the case, in particular that the petitioner has not misused the concession of bail and no recovery was effected from him, on bail in other previous cases; charges were framed on 01.06.2023; none out of 27 prosecution witnesses has yet



been examined, thus the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing fresh 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, he is an accused, or for commission of which he 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 his liberty.
- (vii) 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.
- (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.

7. 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.

8. 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.

14.08.2024
ashok

(AMAN CHAUDHARY)
JUDGE

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