

2024:PHHC:141298



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

Sr. No.232-2

**CRM-M-44363-2024(O&M)
Date of decision : 28.10.2024**

Harjinder Singh @ Sonu

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Harmanpreet Singh, Advocate, for the petitioner.

Mr. R.S. Thind, DAG, Punjab.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 483 of BNSS, 2023 has been invoked for grant of regular bail to the petitioner in case FIR No.87 dated 06.05.2024, under Sections 323, 379-B (2), 148 & 149 IPC, registered at Police Station Islamabad, District Amritsar.

2. Learned counsel for the petitioner *inter alia* submits that it is alleged that the petitioner and the co-accused had caused injuries to the complainant and had snatched a mobile phone from the complainant. He further submits that the petitioner has been falsely implicated in this case. He has not been named in the FIR and no specific role has been attributed to him. The petitioner has undergone an actual custody of 05 months and 17 days and is involved in two other criminal cases, however, in one case he is on bail.

3. *Per contra*, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. He states that the petitioner was actively involved in the commission of the offence. He has

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filed custody certificate in Court today and the same is taken on record. As per custody certificate, the petitioner has undergone actual custody of 05 months and 17 days and is involved in two other cases. He on instructions from the concerned investigation officer submits that the challan has been presented and charges have not been framed. Out of a total of 17 prosecution witnesses, none has been examined till date. He however, submits that in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail.

4. Heard the rival submissions made by learned counsel for the parties.

5. The veracity of the allegations leveled against the petitioner shall be established during the course of the trial. Admittedly, challan has been presented and charges are yet to be framed. Out of a total 17 prosecution witnesses, none of the prosecution witness have been examined and the conclusion of the trial will take considerable time. The petitioner has undergone an actual custody of 05 months and 17 days and there are two criminal cases registered against him, however, in one case he is on bail. This Court is of the considered view that further incarceration of the petitioner will not serve any purpose.

6. As regards the submission of learned State counsel that petitioner is involved in other/one more criminal case(s), reference is placed upon the judgment of the Hon'ble Supreme Court in **Maulana Mohd. Amir Rashadi Vs. State of U.P. and another, 2012 (2) SCC 382** in which, it is held that the facts and circumstances of the present case are to be seen while

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be rejected solely on the ground that the petitioner is involved in other/another case(s). The relevant portion of the said judgment is reproduced herein-below:-

“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. Without commenting anything on the merits of the case, lest it may prejudice the trial, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing adequate bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate. The petitioner shall also 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 witness(s).
- (III) The petitioner will appear before the trial Court on the date fixed, unless personal presence is exempted.
- (IV) The petitioner shall not commit an offence similar to the offence of which he is accused of, or for commission of which he is suspected.
- (V) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the

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facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

8. In case of breach of any of the above conditions, the prosecution shall be at liberty to move an application for cancellation of bail before this Court.

9 However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

28.10.2024

Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No