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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

201

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Date of decision: 30.09.2024

Dulesh Aalam
....Petitioner

Versus

State of Haryana
...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Ms. Neeru Bansal, Advocate
for the petitioner.

Ms. Vibha Tewari, AAG, Haryana.

AMAN CHAUDHARY. J (Oral)

1. Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.372, dated 29.07.2022, registered under Sections 387, 506 and 120-B IPC and Section 66-C of IT Act, 2000, at Police Station Sector-27, District Sonipat (Haryana).
2. Learned counsel contends that the petitioner is in custody for 2 years and about 2 months. He was implicated on the basis of disclosure statement of co-accused Badre Alam, who is in custody. The co-accused, whose names also surfaced based on the disclosure statement of the aforesaid co-accused, namely Amit Yadav @ Radheshyam, Sadik Anwar, Kesh Aalam, Sanjay Kumar Gautam and Sanoj Kumar have already been granted regular bail by this Court, while also



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being involved in other cases. The offences involved in the present case are triable by the Magistrate. 7 witnesses are yet to be examined out of 29. The petitioner is involved in other cases, however out of 7, he is acquitted in 3, which were registered on similar allegations. 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 29.09.2024, filed by learned State counsel is taken on record, as per which, the petitioner is behind bars for 2 years, 1 month and 23 days.

4. Learned State counsel opposes the bail on the ground that the recovery of Rs.1,50,000/- cash, along with mobile phones, ATMs, Sim Cards, passbook and diary were affected from the petitioner. She is however unable to controvert the submissions made regarding the stage of the case, co-accused having been granted bail and the petitioner being acquitted in 3 cases as stated on behalf of him.

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



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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 2 years, 1 month and 23 days; is either acquitted in other cases or on bail; co-accused have been enlarged on bail; 7 prosecution witnesses out of 29, remain to be examined; 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, 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.



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- (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.

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

30.09.2024
Hemant

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