



CRM-M-54131-2023

- 1 -

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

201

CRM-M-54131-2023

Date of decision:18.10.2024

Balraj Singh

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. L. M. Gulati, Advocate, for
Mr. Tarun Sharma, Advocate, for the petitioner.

Mr. Manipal Singh Atwal, DAG, Punjab.

AMAN CHAUDHARY. J.

1. The present petition has been filed under Section 439 Cr. P.C. for grant of regular bail to the petitioner in case FIR No.135 dated 20.10.2022, registered under Section 25, 8 of the Arms Act, 1959 (Section 25 (8) of the Arms Act, 1959 and Sections 379 & 411 IPC added later on), at Police Station Division E, District Police Commissionerate Amritsar.

2. Learned counsel contends that the petitioner is in custody for last about 2 years and as per the allegations, 9 mm unlicensed pistol was recovered from him, which has though not been used in the commission of any offence. The other co-accused namely Atish Kumar @ Brahman Atish from whom 30 bore pistol was recovered has been granted bail vide order dated 29.09.2023 after having been in custody for more than 11 months. Two other co-accused namely Harmanjot Singh @ Harman and Avinash Kumar have also been granted bail after a custody of 11 months and 10 months respectively. Charges



were framed on 18.01.2023, however, out of 16 prosecution witnesses, only 1 has been examined so far, though one given up. The petitioner is involved in one case of NDPS Act wherein he is on bail and in another case of Prison Act, has been convicted having been found in possession of mobile phone. In this regard, 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 09.09.2024 has been filed by learned State counsel. As per the same, the petitioner is behind bars for 1 year, 10 months and 8 days.

4. Learned State counsel opposes the bail on the ground that the petitioner is a habitual offender and was apprehended while being in possession of an unlicensed pistol and on his disclosure statement, an AK 47 was recovered. He is however unable to controvert the submissions with regard to the stage of the case, co-accused having been granted bail and the petitioner being on bail in the other case.

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."

7. Considering the facts and circumstances of the case, in particular that the petitioner is in custody for the last 1 year and 10 months and 8 days; he being on bail in other case; co-accused having been granted bail; charges stand framed on 18.01.2023, however, out of 16 prosecution witnesses, only one has



yet been 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.
- (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

October 18, 2024
dinesh

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