

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.58438 of 2023 (O&M)
Date of decision: 14.03.2024

Amit Kumar
State of Haryana
Versus
....Petitioner
....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Sanpreet Sandhu, Advocate
for the petitioner.
Mr. Saurabh Mohunta, DAG, Haryana.

NAMIT KUMAR J. (Oral)

CRM No.10566 of 2024

Disposed of as having been rendered infructuous.

CRM-M No.58438 of 2023 (O&M)

1. Prayer in this 3rd petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.272 dated 09.05.2022, for offence punishable under Sections 148, 149, 307, 506 of the Indian Penal Code (in short 'IPC') and Section 25 of the Arms Act, registered at Police Station Tehsil Camp, District Panipat.
2. The earlier two petitions seeking regular bail were dismissed as withdrawn on 19.12.2022 and 10.03.2023.
3. Learned counsel for the petitioner submits that the new ground for filing this 3rd petition is that the petitioner is in custody for

the last 01 year, 08 months and 26 days and he is on bail in all other FIRs registered against him. Learned counsel for the petitioner further submits that as per the allegations in the FIR, on 08.05.2022, the complainant – Mandeep Singh was sleeping with his children and family members on the roof of the house. At about 2:00/3:00 am. the pet dog of the complainant started barking and when the complainant woke up, he saw that Pardeep @ Golu, Yogesh @ Kali, Dheeraj, Amit Kundu (petitioner herein) and other persons were standing on the back side of the roof and Amit Kundu – petitioner suddenly opened fire with pistol towards the complainant and Pardeep also attempted to fire but failed to do so. The remaining accused started throwing bricks and stones towards the complainant and other family members and threatened to kill them.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in the present case. He further submits that it is a case of no injury and present petitioner has no motive to have participated in any manner in the alleged occurrence. He also contends that no overt act has been attributed to the petitioner or any specific role has been attributed to the petitioner. He further submits that petitioner is in custody since 13.06.2022; investigation is complete and challan has already been presented in the Court.

5. Learned counsel for the petitioner also submits that the co-accused of the petitioner namely, Mohan @ Monu; Pardeep @ Golu and Dheeraj, have already been granted the concession of regular bail

by a Co-ordinate Bench of this Court vide orders dated 06.11.2023 and 01.12.2023 passed in CRM-M No.31995 of 2023; CRM-M No.53584 of 2023 and CRM-M No.59242 of 2023 whereas Yogesh @ Kali has been granted regular bail by this Court vide order dated 11.03.2024, passed in CRM-M No.57527 of 2023. He further submits that out of total 19 prosecution witnesses only one witness has been examined and now the case is fixed for 03.06.2024 for prosecution evidence. Lastly, he contends that the conclusion of the trial is likely to take some time and no fruitful purpose would be served by detaining the petitioner behind the bars.

6. Per contra, learned counsel for the State while placing on record the custody certificate dated 13.03.2024 has opposed the prayer for grant of regular bail to the petitioner. He further submits that petitioner is an habitual offender, therefore, he does not deserve the concession of regular bail. However, he has not disputed that petitioner is in custody since 13.06.2022; investigation is complete; challan has been presented; out of total 19 prosecution witnesses only one witness has been examined till date and abovesaid co-accused of the petitioner have been granted the concession of regular bail and the petitioner is at parity with them.

7. Refuting the above contention of the learned State counsel, learned counsel for the petitioner contends that petitioner is on bail in all other cases i.e. FIR No.613 of 2021, FIR No.119 of 2022, FIR No.342 of 2019, FIR No.1175 of 2018, FIR No.590 of 2016, FIR No.1011 of 2016, FIR No.122 of 2022, FIR No.275 of 2022, FIR

No.270 of 2022, FIR No.122 of 2018 and FIR No.522 of 2022, which has not been disputed by the learned State counsel. Learned counsel, relying upon the judgment of Hon'ble Supreme Court in ***“Maulana Mohd. Amir Rashadi Vs. State of U.P. and another”***, 2012 (2) SCC 382, contended that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other cases. The relevant portion of the said judgment is reproduced hereinbelow:-

“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.”

8. I have heard learned counsel for the parties and perused the record.

9. Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last 01 year, 08 months and 26 days; his co-accused, namely, Mohan @ Monu; Pardeep @ Golu, Dheeraj and Yogesh @ Kali have already been granted the concession of regular bail; investigation is complete; challan stands presented; charges have been framed and out of 19 PWs, only 01 PW has been examined so far; petitioner is already on bail in other FIRs and conclusion of the trial is likely to take some time, this

petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

(NAMIT KUMAR)
JUDGE

14.03.2024
yakub

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