

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

250

CRM-M-63955-2023
Date of decision: 11.01.2024

Hitesh

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. B.S. Chahal and Mr. Madhur Jangra, Advocates
for the petitioner.

Mr. Jagdish Manchanda, Addl. AG Haryana.

AMAN CHAUDHARY. J.

1. Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.668, dated 10.11.2017, registered under Sections 302, 120-B, 201 and 34 IPC and Section 25 of Arms Act, at Police Station Bahadurgarh, District Jhajjar.
2. Learned counsel contends that the petitioner is in custody for 5 years and more than 3 months. He was not named in the FIR, which was registered at the hands of Sanju, son of the deceased. However, his name surfaced based on disclosure statement of co-accused Parveen, made in another FIR No.927 of 2018, registered under Sections 25, 54 and 59 of Arms Act. The said co-accused has since been granted bail in the present case vide order dated 02.07.2019, (Annexure P-3). The petitioner was also involved in the aforesaid FIR and stands acquitted. Charges were framed in this case on 21.02.2019, however, out of 31 prosecution witnesses, 18 have been examined including the complainant and other material

witnesses. The petitioner is involved in one more case, under the Prisons Act. 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 10.01.2024, filed by learned State counsel is taken on record, as per which, the petitioner is behind bars for 5 years, 3 months and 21 days.

4. Learned State counsel opposes the bail on the ground that there are specific allegations levelled against the petitioner and recovery of the weapon has been effected from him. He is however unable to controvert the submissions made regarding stage of the case, co-accused having been enlarged on bail, the petitioner being acquitted in FIR No.927 of 2018 *ibid*.

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 last 5 years, 3 months and 21 days; co accused having been granted bail; Charges were framed on 21.02.2019; the complainant and other material witnesses have been examined out of a total of 31 PWs but 13 still remain; 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

11.01.2024
Hemant

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