

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

(205)

CRM-M-31927-2021.
Date of Decision:-13.10.2021.

Imran

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Sarfraj Hussain, Advocate for the petitioner.

Mr. Manish Dadwal, AAG, Haryana.

(Through Video Conferencing)

VIKAS BAHL, J. (Oral)

This is the first petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.119 dated 05.05.2021 under Sections 395, 397 and 412 of IPC, registered at Police Station Hathin, District Palwal.

Learned counsel for the petitioner has submitted that in the present case, even as per the prosecution version, the petitioner is not the person who has committed the offences under Sections 395, 397 of IPC and even as per the disclosure statements, made by the co-accused who are stated to have committed the said offences, the stolen articles were sold to the petitioner who is stated to be a scrap dealer. Learned counsel for the petitioner has further submitted that the petitioner was arrested on 08.05.2021 and in the present case, challan has been filed and no

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prosecution witness has been examined and, thus, the trial is likely to take time moreso, in view of the present pandemic.

Learned State counsel has opposed the present bail application and has made a specific reference to para 4 of the reply filed by the State, as per which the recovery of the stolen articles had been effected from the petitioner and it is on account of the said recovery, offence under Section 412 of IPC has been added and the punishment with respect to the said offence is also very severe. It is further submitted that the petitioner is involved in one more case.

Learned counsel for the petitioner, in rebuttal, has relied upon a judgment dated 16.01.2012 passed by the Hon'ble Supreme Court in Criminal Appeal No.159 of 2012 titled as ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and others 2012 (2) SCC 382***, to contend that as per settled law, it is the facts of the case at hand which are required to be considered for the purpose of deciding the bail application. Reference has been made to the relevant portion of paragraph 6 which 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.”

This Court has heard the learned counsel for the parties.

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Keeping in view the fact that as per the prosecution case, the petitioner was not one of the 10 persons who had committed the offences under Sections 395 and 397 of IPC and even as per the disclosure statement of the co-accused, the stolen goods had been sold to the petitioner, who is stated to be a scrap dealer and also the fact that the petitioner has been in custody since 08.05.2021 and the challan has already been filed in the present case and the trial is likely to take time since, no prosecution witness has been examined, moreso, in view of the present pandemic and it would be a moot question during trial as to whether the petitioner had knowledge that the said goods purchased by him were stolen goods from committing dacoity/robbery or not, this Court deems it appropriate to allow the present petition.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate and subject to the fact that he is not required in any other case.

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

(VIKAS BAHL)
JUDGE

October 13, 2021.

sandeep

Whether speaking/reasoned:-

Yes/No

Whether Reportable:-

Yes/No