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

CRM-M-36293-2021

Date of decision : 06.12.2021

Vikramjit Singh @ Vicky and another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Veneet Sharma, Advocate for the petitioners.

Mr. Sukhbeer Singh, AAG, Punjab.

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of regular bail to the petitioners in FIR No.175 dated 21.06.2021 registered under Section 379 of the Indian Penal Code, 1860 (hereinafter to be referred as “the IPC”) (Sections 379-B and 411 of the IPC have been added later on) at Police Station Ranjit Avenue, Amritsar City, District Amritsar.

Learned counsel for the petitioners has submitted that the FIR was registered only under Section 379 of the IPC and the complete version of the complainant was recorded and as per his complete version, it was alleged that the complainant alongwith his friend had come out of his car and then some unknown persons had taken away his car. It is argued that subsequently, only in order to add offence under Section 379-B of the IPC,

supplementary statement of the complainant was recorded after 20 days of the registration of the FIR i.e. on 13.07.2021.

Learned counsel for the petitioners has submitted that as per the complainant, in fact, one Indica car came near them and pulled over and 2-3 persons had come out of the said car and they forcibly took away the car of the complainant by showing them pistols and also threatening the complainant with them. It is also submitted that the subsequent statement recorded is apparently an improvement from the statement before made in the FIR and has been made after an unexplained delay of 20 days. Learned counsel for the petitioners has further argued that the petitioners have been in custody since 13.07.2021 and the challan in the present case has already been filed and there are 11 witnesses, out of which, none have been examined and thus, the conclusion of the trial is likely to take time.

On the other hand, learned State Counsel has submitted that in the present case, Section 379-B of the IPC has been subsequently added and has submitted that petitioner No.1 is involved in other cases also and has thus, opposed the present petition for grant of regular bail to the petitioners.

Learned counsel for the petitioners, in order to rebut the abovesaid argument, has submitted that petitioner No.2 is not involved in any other case and petitioner No.1 is involved in two cases but none of the same are with respect to theft/stealing. It is further contended that in one case, FIR has already been quashed and in the other case, he has already been granted the concession of regular bail. It is stated that the recovery has already been effected. Since, all the witnesses are the police officials, thus, no purpose would be served in keeping the petitioners in custody. Reliance

has been placed upon the judgment of Hon'ble Supreme Court in “***Maulana Mohd. Amir Rashadi vs. State of U.P. and another***”, reported as **2012 (2) SCC 382** in order to contend that the facts and circumstances of the present case are to be seen and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in another case.

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.”

Keeping in view the above said facts and circumstances, more so, the fact that as per the version in the FIR, the same was recorded under Section 379-B of the IPC without there being any physical threat from any person and the supplementary statement has been recorded after a period of 20 days and also the fact that the petitioners have been in custody since 13.07.2021 and challan in the present case has already been presented and there are 11 witnesses, who all are police witnesses and thus, the question that petitioners will threaten or influence the witnesses would not arise and since, none of them have been examined, thus, the conclusion of the trial is likely to take time, moreso, in view of the present COVID-19 pandemic, this Court deems it appropriate to allow the present petition and grant the concession of regular bail to the petitioners.

Accordingly, the present petition is allowed and the petitioners are ordered to be released on bail upon their furnishing bail/surety bonds to

the satisfaction of the concerned trial Court/Duty Magistrate and subject to them not being required in any other case.

It is however made clear that in case, the petitioners are found to be indulging in any other criminal activity, then, it would be open to the State to move an application for cancellation of the bail granted to the petitioners.

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.

06.12.2021

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No