

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

210

**CRM-M-41555-2021
Decided on : 26.10.2021**

Ajay @ Mota

. . . Petitioner

Versus

State of Haryana

. . . Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

(Through Video Conferencing)

PRESENT: Mr. Randeep S. Dhull, Advocate
for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J. (Oral)

This is a first petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No. 200 dated 15.04.2018 under Sections 379-A, 411, 420 of IPC registered at Police Station Shivaji Colony, Rohtak, District Rohtak.

Learned counsel for the petitioner has submitted that in the present case, the petitioner is in custody since 16.04.2018 and thus, has been in custody for a period of more than 3 years and 6 months and the challan in the present case has been filed. It is further submitted that the alleged mobile phone, which was snatched has even as per the prosecution case, been recovered and inspite of several dates, the complainant has not been examined. Learned counsel for the petitioner has submitted that the trial is likely to take time and there are 11 witnesses involved out of which 7 witnesses are yet to be examined.

Learned State counsel has opposed the present bail application but has not denied the custody period of the petitioner and has submitted that the petitioner is involved in 10 other cases. It has further been submitted that although the petitioner has been acquitted in 5 cases and he has undergone sentence in two cases but in another case under Section 379-B IPC, the petitioner has been convicted.

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*** 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.”

Keeping in view the above said facts and circumstances, moreso, the fact that the petitioner has been in custody since 16.04.2018 i.e. more than 3 years and 6 months and 7 more witnesses are yet to be examined and the recovery of the mobile phone in question has already been effected and also keeping in view the fact that the co-accused of the petitioner namely Gagan and Hardik have been acquitted by the Juvenile Justice Board and also the fact that the trial is likely to take time more so on account of the present pandemic situation and also in view of the law laid down in Maulana's (*supra*) case, this Court is of the view that the

present petition deserves to be allowed and the petitioner deserves to be released on bail.

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 him not being required in any other cases.

It is however stated that in case any act is done by the petitioner to threaten the complainant or any of the witnesses it would be open to the State counsel to move an application for cancellation of the bail granted to the petitioner. Moreover, in case the petitioner is not required in any other case and is released on bail then the petitioner would report to the Station House Officer of Police Station Shivaji Colony, Rohtak, District Rohtak on the 1st and 15th of every month. In case of any default on the said account also, liberty is granted to the State to seek cancellation of the bail granted to the petitioner.

However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court 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

26.10.2021

Mehak

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No