

CRM-M-41812-2021

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

(216)

CRM-M-41812-2021.
Date of Decision:-08.10.2021.

Paramvir Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. G.S. Verma, Advocate for the petitioner.

Mr. Saurav Khurana, DAG, Punjab.

(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.136 dated 21.08.2021 under Sections 323, 341, 427, 506, 148 and 149 of IPC and Section 379-B of IPC (added subsequently), registered at Police Station Koom Kalan, District Ludhiana (Punjab).

Custody certificate filed by the learned State counsel is taken on record.

Learned counsel for the petitioner has submitted that in the present case, a compromise has been effected between the petitioner and the complainant and the said compromise is annexed as Annexure P-2 dated 16.09.2021. On the basis of the said compromise, the petitioner and the

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other co-accused have filed a petition under Section 482 Cr.P.C. for quashing of the FIR, in which a Co-ordinate Bench of this Court, vide order dated 24.09.2021, was pleased to issue notice of motion and also directed the parties to record their statements. Learned counsel for the petitioner has also referred to the order dated 29.09.2021 vide, which the bail application of the petitioner was rejected and in paragraph 8 of the said order, the complainant had appeared and had reiterated the fact that the matter has been compromised and he has no objection in case, the concession of bail is granted to the petitioner. Learned counsel for the petitioner has further submitted that the alleged injuries attributed to the petitioner are simple in nature and the petitioner was stated to be armed with a stick (*danda*) and stated to have given one injury on the left arm of the complainant. It is further submitted that nothing is to be recovered from the petitioner and he has been in custody since 23.09.2021.

Learned State counsel has opposed the bail application and has submitted that the petitioner is involved in other cases also.

Learned counsel for the petitioner, in rebuttal, to the said argument, has submitted that the said offences are primarily under the Excise Act and the Mining & Mineral Act and the petitioner is on bail in all the said cases. Moreover, learned counsel for the petitioner 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 it is the facts and the custody undergone by the petitioner in the matter at hand i.e., the present petitioner, which are to be considered primarily in order to

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assess as to whether the petitioner deserves the concession of regular bail or not. 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.

Keeping in view the above-said facts, moreso, the fact that in the present case, the matter has been compromised, as is apparent from the compromise dated 16.09.2021 (Annexure P-2) and also a petition under Section 482 Cr.P.C. for quashing of the FIR on the basis of the above-said compromise has already been filed and notice of motion has been issued in the same and the complainant himself has appeared as apparent from para 8 of the order dated 29.09.2021 and has reiterated the factum with respect to the compromise and has also stated that he has no objection in case the petitioner is granted the concession of regular bail and also the fact that the injury attributed to the petitioner is simple in nature with a stick (*danda*) on a non-vital part i.e., left arm and the fact that the petitioner has been in custody since 23.09.2021 and nothing is to be recovered from the petitioner and the trial is likely to take time, moreso, keeping in view the present COVID-19 pandemic situation and also in view of the judgment passed in

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Maulana's case (supra), the present petition deserves to be allowed.

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 his not being 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 08, 2021.

sandeep

Whether speaking/reasoned:-

Yes/No

Whether Reportable:-

Yes/No