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

CRM-M-43065-2021

Date of decision : 21.12.2021

Bunty

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Arihant Jain, Advocate for the petitioner.

Mr. Manish Dadwal, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of regular bail to the petitioner in FIR No.387 dated 21.08.2020 registered under Sections 379-A/201/34 of the Indian Penal Code, 1860 at Police Station Old Subzi Mandi, District Rohtak.

Learned counsel for the petitioner has submitted that in the present case, the petitioner has not been named in the FIR and the co-accused of the petitioner, who was driving the motorcycle in question and from whom the motorcycle and an amount of Rs.7000/- had been recovered, has already been granted the concession of bail by the Sessions Judge, Rohtak vide order dated 22.03.2021. It is argued that the case of the petitioner is on a similar footing as that of the said co-accused

Chetan. It is further argued that the petitioner has been in custody since 22.08.2020 and in the present case, challan has already been filed and there are as many as 21 witnesses out of which none have been examined as yet and thus, conclusion of the trial is likely to take time. It is further contended that the recovery has already been made, thus, no purpose would be served in keeping the petitioner in custody.

On the other hand, learned State Counsel has opposed the present petition for grant of regular bail to the petitioner and has submitted, on instructions from SI Kashmir Singh, that the petitioner is involved in 4 other cases and has submitted that the recovery of mobile, voter card and money has been effected from the petitioner, in addition to the recovery of motorcycle and Rs.7000/- from co-accused Chetan. It is, however, not in dispute that the case of the present petitioner is on a similar footing as that of the co-accused, except the fact that the petitioner is involved in four other cases.

Learned counsel for the petitioner, in rebuttal to the said arguments has submitted that even the co-accused of the petitioner namely Chetan was involved in 5 other cases and for the same, reference has been made to para 5 of the order (Annexure P-2) vide which bail has been granted to the said co-accused Chetan. He has further relied 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*** 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 other cases. 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 abovesaid facts and circumstances, moreso the facts that recovery has already been effected from the petitioner and the petitioner has been in custody since 22.08.2020 and there are as many as 21 witnesses out of which none have been examined and conclusion of trial is likely to take time moreso in view of COVID-19 pandemic and also the fact that the co-accused of the petitioner namely Chetan, who is similarly placed as the present petitioner, has already been granted the benefit of regular bail vide order dated 22.03.2021 (Annexure P-2) and also in view of law laid down in **Maulana Mohd.'s** case, this Court deems it appropriate to allow the present petition and grant bail to the petitioner.

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.

It is made clear, in case, the petitioner threatens or influences any witness, it would be open to the State to move an application for cancellation of the present regular bail granted to the petitioner.

21.12.2021

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No