

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

(104+206)

CRM-M-44799-2021 (O&M).
Date of Decision:-02.12.2021.

Pawanpreet Singh @ Babla

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Arnav Kumar, Advocate for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

VIKAS BAHL, J. (Oral)

CRM-41060-2021

Application is allowed as prayed for, subject to all just exceptions.

CRM-M-44799-2021

This is the first petition under Section 439 of Cr.P.C. for grant of regular bail to the petitioner in FIR No.09 dated 16.01.2021 under Sections 323, 324, 148, 149, 120-B and Section 326 of IPC and Section 3 of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, registered at Police Station Haibowal, District Ludhiana.

Learned counsel for the petitioner has submitted that as far as the offence under Section 3 of the SC/ST Act is concerned, the same has been added only on the basis of the supplementary statement made by the complainant which shows that they were trying to improve the version they

CRM-M-44799-2021 (O&M)

had given initially and has further submitted that in fact, the petitioner himself as well as his father, also belong to Mazhbi caste and are Scheduled Castes themselves and, thus, the offence under SC/ST Act would not be attracted. It is further submitted that there is a delay of 03 days in registration of the FIR inasmuch as the incident occurred on 13.01.2021 whereas, the FIR has been registered on 16.01.2021. It is also submitted that the petitioner has been attributed one injury on the eye of the complainant. Learned counsel for the petitioner has referred to the medical evidence to state that although in the impugned order, it has been mentioned that the eye has been totally damaged but as per the documents Annexure P-8 and P-9, it is nowhere stated that eye is completely damaged, rather in Annexure P-9, it has been mentioned that the chief complaint of the patient (complainant) was blurred vision and not complete loss of vision and even in Annexure P-8, there is a remark with respect to there being some improvement. It is further submitted that the petitioner has been in custody since 18.03.2021 and the challan in the present case has also been presented and there are 18 witnesses, and none of them have been examined and, thus, the trial is likely to take time moreso, in view of the present pandemic.

Learned State counsel, on the other hand, has opposed the application for regular bail and has submitted that the injury caused by the petitioner is, at any rate, a grievous injury and there is one more case against the petitioner.

Learned counsel for the petitioner, to rebut the above-said argument, has submitted that the petitioner has already been granted bail in the other case and has relied upon a judgment passed by the Hon'ble Supreme Court in Criminal Appeal No.159 of 2012 titled as ***Maulana***

CRM-M-44799-2021 (O&M)

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 as far as the allegation under Section 3 of the SC/ST Act is concerned, the same was never made in the first statement made by the complainant and was made in the supplementary statement and the petitioner himself belongs to Mazhbi caste which is a Scheduled Caste and also the fact that there was a delay of three days in registration of the FIR and the petitioner has been in custody since 18.03.2021 and there are 18 witnesses and none of them have been examined and, thus, the trial is likely to take time moreso, in view of the present pandemic, the present petition for grant of regular bail 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 him not being required in any other case and further subject to the petitioner depositing an amount of Rs.30,000/- before the trial Court/Duty Magistrate within a period of one month from today, which will be released to the

CRM-M-44799-2021 (O&M)

complainant on an application moved by the complainant before the trial Court and also subject to the fact that the petitioner would not threaten the complainant or witnesses in any manner. It is, however, made clear that in case the above-mentioned conditions are not complied with, then it would be open to the State to move an application for cancellation of the present 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 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

December 02, 2021.

sandeep

Whether speaking/reasoned:-
Whether Reportable:-

Yes/No
Yes/No