

CRM-M-50060-2021

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

(206)

CRM-M-50060-2021.
Date of Decision:-03.12.2021.

Dinesh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Suresh K Jindal, Advocate for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J. (Oral)

This is the first petition under Section 439 of Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.86 dated 01.03.2020 under Sections 399 and 402 of IPC and Sections 25, 54 and 59 of the Arms Act (Sections 379-B and 412 of IPC added later on and Section 25 of Arms Act deleted later on), registered at Police Station Kharkhoda, Sonipat.

Learned counsel for the petitioner has submitted that in the present case as per the prosecution version, secret information was received at the Police Station Kharkhoda, Sonipat, to the effect that the co-accused of the petitioner Aman along with his accomplices in a white Duster Car was planning to commit dacoity or looting at the petrol pump. It is argued that actually no overt act much less any act of dacoity or looting had actually been committed by the petitioner or his co-accused. It is submitted

CRM-M-50060-2021

that the petitioner has been in custody since 01.03.2020 and there are 18 witnesses, out of which only one was examined earlier and now after submission of the supplementary challan, the charges have been framed on 08.11.2021 and, thus, the trial would take a long time moreso, in view of the present pandemic. It is further submitted that all the witnesses are police officials and, thus, the question of influencing or threatening them does not arise and thus, learned counsel for the petitioner prays for grant of regular bail to the petitioner.

Learned State counsel, on the other hand, has opposed the application for grant of regular bail and has submitted that there as many as 5 other cases against the petitioner and although, no dacoity or robbery was actually committed but there was a recovery of country-made pistol from the petitioner.

Learned counsel for the petitioner, in rebuttal, has submitted that the investigation is complete and no further recovery is required to be effected and has also relied upon a judgment 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***, reported as 2012 (2) SCC 382, to contend that it is the facts and circumstances of the present case which are to be considered for grant of bail. 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 in the present case neither robbery nor dacoity was actually committed and even the secret information received, was against Aman and his accomplice and the challan in the present case has already been presented and the petitioner has been in custody since 01.03.2020 and out of 18 witnesses, only one witness has been examined and vide order dated 08.11.2021, the charges have been framed afresh after supplementary report has been received and, thus, the trial is likely to take time moreso, in view of the present pandemic situation and also, in view of the law laid down in the case of **Maulana** (supra), 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 bonds and local surety to the satisfaction of the concerned trial Court/Duty Magistrate and subject to his not being required in any other case and subject to the fact that the petitioner appears before the trial Court on each and every date unless granted personal appearance from that Court. The petitioner shall not indulge in any criminal activity in future and in case he indulges in any such criminal activity, then it would be open to the State to move an application for cancellation of the bail.

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

CRM-M-50060-2021

for the purpose of adjudicating the present bail application.

(VIKAS BAHL)
JUDGE

December 03, 2021.
sandeep
Whether speaking/reasoned:-
Whether Reportable:-

Yes/No
Yes/No