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

CRM-M-52692-2021

Date of decision : 21.12.2021

Amrik Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Jasraj Singh, Advocate for the petitioner.

Mr. Sukhbeer Singh, AAG, Punjab.

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of regular bail to the petitioner in FIR No.225 dated 20.09.2021 registered under Section 364-A of the Indian Penal Code, 1860 (Sections 120-B of IPC and Section 25 of the Arms Act, 1959 have been added later on) at Police Station Model Town, District Hoshiarpur.

Learned counsel for the petitioner has submitted that as per the FIR, 3-4 unknown persons had kidnapped the son of the complainant and had demanded ransom of Rs.50,00,000/- for his release. It is apparent from the application dated 24.09.2021 (Annexure P-2) vide which, the police sought remand of the present petitioner alongwith other accused, the police party had prepared the dummy bag of currency notes and had gone

alongwith the complainant to give the said money to the persons who were behind the kidnapping and at the said time, it was Varinderpal Singh @ Vicky and one Gurdial Singh, who had allegedly come to take the money/ransom and the police had apprehended Varinderpal Singh @ Vicky at the said time on the spot and from whom, one pistol of 32 bore alongwith three live cartridges of 32 bore were recovered. It is further argued that the said Varinderpal Singh @ Vicky was arrested on 20.09.2021 and was presented in the Court on 21.09.2021 and during the course of investigation, the kidnapped boy namely Rajan, was released by the accused persons and was handed over to the complainant's family and thereafter, on the basis of confessional statement made by Varinderpal Singh @ Vicky, Jagjit Singh @ Raja was also nominated as an accused and was arrested on 23.09.2021. It is on the basis of disclosure statement of said Jagjit Singh @ Raja that the petitioner had been implicated in the case and was arrested on 24.09.2021. It is further contended that no recovery has been effected from the petitioner, although the police application for remand against the petitioner was allowed. Further reference has been made to the said application to show that the petitioner was not among the four persons who had kidnapped the complainant's son namely Rajan and also was not a person who had gone to collect the money amounting to Rs.50,00,000/- and has only been nominated on the basis of disclosure statement of Jagjit Singh @ Raja who, himself has been involved on the basis of disclosure statement of co-accused Varinderpal Singh @ Vicky and no recovery has been effected from the petitioner. It is further argued that the kidnapped boy namely Rajan has been safely returned to his home and no ransom was paid.

Notice of motion.

On advance notice, Mr. Sukhbeer Singh, AAG, Punjab, appears and accepts notice on behalf of the State and has submitted that he is fully prepared to argue the matter and assist this Court. He has opposed the present petition for grant of regular bail to the petitioner and has submitted that name of the petitioner had been taken by Jagjit Singh @ Rajan in his disclosure statement and thus, it shows that the petitioner is also involved in the crime. It is further submitted that the petitioner is involved in two other cases, although in one of the cases, he has been acquitted but the other case is still pending.

Learned counsel for the petitioner, in rebuttal, has relied upon 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.”

This Court has heard the learned counsel for the parties and has perused the paper book.

It is not in dispute that the petitioner has not been named in the FIR and even as per the application dated 24.09.2021 (Annexure P-2) which was moved by the police for getting the police remand of the present petitioner and of the two other co-accused, it had been stated that a dummy bag of currency notes had been prepared by the police so as to arrest the persons who were demanding a ransom of Rs.50,00,000/- for the release of the complainant's son namely Rajan and to take the said money, two persons Varinderpal Singh @ Vicky and Gurdial Singh had come to the spot on 20.09.2021 and the said Varinderpal Singh @ Vicky was arrested. It is, thus, apparent that it is not the present petitioner who had come to collect ransom/money for the release of the complainant's son. It is from the said Varinderpal Singh @ Vicky that recovery of one pistol of 32 bore alongwith three live cartridges were recovered. It is during the investigation of the said Varinderpal Singh @ Vicky, the said kidnapped boy namely Rajan was released and was handed over to his family and on the basis of confessional statement of Varinderpal Singh @ Vicky, the said Jagjit Singh @ Raja was arrested. It is on the basis of the disclosure statement of said Jagjit Singh @ Raja, the present petitioner was arrested on 24.09.2021 and thus, the petitioner has been solely implicated on the basis of disclosure statement of Jagjit Singh @ Raja and no recovery has been effected from the petitioner, although, the police remand application for custody of the petitioner was allowed. A perusal of the application dated 24.09.2021 (Annexure P-2) would also show that the petitioner was not one of the four persons who had kidnapped the complainant's son. The petitioner is stated to have been in custody since 24.09.2021 and there are 18 witnesses out of which, none

have been examined as yet and, thus, the conclusion of the trial is likely to take time, moreso in view of the COVID-19 pandemic.

Keeping in view the abovesaid facts and circumstances and also in view of the law laid down in **Maulana Mohd.'s** case (Supra), this Court deems it appropriate to allow the present petition and grant the concession of regular 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**