

205

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

CRM-M-547-2022

Date of decision : 03.03.2022

Ajit

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Pankaj Bali, Advocate for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of regular bail to the petitioner in FIR No.548 dated 12.07.2021 registered under Sections 148, 149, 323, 324, 341, 307, 326, 506 of the Indian Penal Code, 1860 at Police Station Karnal City, District Karnal.

Learned counsel for the petitioner has submitted that in the present case, only injury No.6 has been attributed to the present petitioner which has been declared to be simple in nature. It is further submitted that the version given in the FIR to the effect that it was the present petitioner who called up the complainant is incorrect inasmuch as, it was the complainant who had called up the present petitioner and regarding the same, there is a recording of a telephonic conversation which was stored in

a pen drive and the same was even played before the Sessions Court. It is argued that the injury which has attracted Section 307 of IPC has been attributed to Rishi Parkash and the injury which has attracted Section 326 of IPC, which is stated to be on left thumb, has been attributed to co-accused Lovely. It is further argued that the petitioner has been in custody since 22.07.2021 and challan in the present case has been presented and there are 15 witnesses, out of which, none have been examined yet and even charges have not been framed and thus, the conclusion of the trial of the case is likely to take time moreso, in view of the present COVID-19 pandemic.

Notice of motion.

On advance notice, Mr. Munish Sharma, AAG, Haryana, 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 the allegation against the petitioner is that he had tried to strangle the complainant by tying a rope around his neck. It is contended that the petitioner is involved in four other cases.

Learned counsel for the petitioner, in rebuttal to the abovesaid argument, has submitted that all the said four cases relate to minor offences and the petitioner has already been granted bail in all the said cases. He has 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 another case. 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 injury which has been attributed to the petitioner is injury No.6, which has been declared to be simple in nature. The injury attracting Section 307 of IPC has been attributed to Rishi Parkash and the injury attracting Section 326 of IPC has been attributed to co-accused Lovely.

Learned counsel for the petitioner has relied upon a telephonic conversation which is stated to be stored in a pen drive and the same was even played before the Additional Sessions Judge, Karnal at the time of hearing of the matter in order to show that version in the FIR to the effect that it was the present petitioner who had called up the complainant, was false. The said issue would be seen at the time of trial. The petitioner is stated to be in custody since 22.07.2021 and challan in the present case has already been presented and no further recovery is to be effected from the petitioner and there are 15 witnesses, out of which, none have been examined yet and even charges have not been framed in the present case and thus, the conclusion of the trial of the case is likely to take time moreso, in

view of the present COVID-19 pandemic.

Keeping in view the abovesaid facts and circumstances as well as in view of law laid down in ***Maulana Mohd. Amir Rashadi's case*** (Supra), the present petition for regular bail is allowed and the petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate and subject to him not being required in any other case.

However, it is made clear that in case, any act is done by the petitioner to threaten the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioner.

Nothing stated above shall be construed as an 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.

03.03.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- **Yes/No**

Whether reportable:- **Yes/No**