

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-1048-2022

Date of decision : 08.04.2022

Ali Jaan

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Baljeet Beniwal, Advocate
for the petitioner.

Mr.Munish Sharma, AAG, Haryana.

VIKAS BAHL, J.(ORAL)

This is a first petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.258 dated 09.06.2018 registered under Sections 379-B, 506 read with Section 34 IPC and Section 25 of the Arms Act, 1959 (Sections 420 and 411 IPC added later on) at Police Station Hodal, District Palwal.

Learned counsel for the petitioner has submitted that in the present case, Irshad co-accused of the petitioner has been acquitted and in the said trial, complainant Puran Chandervanshi appeared as PW-4 and as per his evidence which is at page 20 of the paper book, it was specifically stated by said PW-4 that no snatching incident had taken place with him. Even the alleged eye witness PW-5 Vijay Chandervanshi, also deposed on the same lines as the above said PW-4 and both the said witnesses did not identify the co-accused, who was present before the trial Court. It is argued

complainant and the eye witness, then even the petitioner deserves the concession of regular bail moreso, as the petitioner has been in custody since 15.08.2021 and in the supplementary challan presented against the petitioner, there are 12 prosecution witnesses, none of them have been examined thus, the trial is likely to take time.

Learned State counsel, on the other hand, has opposed the present petition and has stated that the petitioner is involved in one more case under the Arms Act.

Learned counsel for the petitioner, in rebuttal, has submitted that the petitioner is on bail in the said case and 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 while deciding a bail application 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 learned counsel for the parties and has perused the paper book.

As per the prosecution version, one Irshad, was the co-accused of the present petitioner and both of them along with other persons committed the offence of snatching of Rs.10,500/- from the complainant.

acquitted. A perusal of the said judgment moreso, the evidence of PW-4 complainant and PW-5 eye witness, would show that the said witnesses have denied any such snatching incident having taken place and they have even refused to identify the co-accused present in the trial Court. The petitioner has been in custody since 15.08.2021 and supplementary challan against the petitioner has been presented and there are 12 prosecution witnesses, none of them have been examined and thus, the trial is likely to take time.

Keeping in view the above said facts and circumstances and in view of law laid down in *Maulana's* case (supra), 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.

However, it is made clear that in case, any act is done by the petitioner to threaten or influence 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 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 petition.

(VIKAS BAHL)
JUDGE

April 08, 2022
Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No