

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(224-1)

CRM-M-3128-2022

Date of decision: - 06.09.2022

Sagar

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Vikas Gulia, Advocate, for the petitioner.

Mr. Dhruv Sihag, 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.418 dated 19.09.2020, under Sections 379-A, 392, 201 and 506 IPC and Sections 25/54/59 of the Arms Act, registered at Police Station Kharkhoda, District Sonipat.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 01.01.2021 and the investigation is complete and the challan has been presented and there are total 23 prosecution witnesses, out of whom, 7 witnesses are yet to be examined and thus, the trial is likely to take time. It is further submitted that the petitioner is not named in the FIR and has been nominated on the basis of the disclosure statement of co-accused. It is also submitted that the car make Tata Safari has already been recovered. It is argued that as per the FIR, Kabir (complainant) and Kamal were the two persons present at the spot when their car, mobile phone and cash was snatched. It is further

argued that the said Kabir and Kamal have been examined as PW-2 and PW-3 respectively, and both the said witnesses have not supported the case of the prosecution and have been declared hostile and they had specifically stated in their cross-examination that the accused persons, including the present petitioner, were not the persons, who had committed the alleged offence.

Learned State counsel on the other hand has opposed the present petition for regular bail and has submitted that the petitioner is involved in four other cases of similar nature. It is further submitted that in addition to disclosure statement of the co-accused, there is also a confessional statement of the present petitioner suffered in another FIR No.280/2020. It is further submitted that in the present case, the recovery of Rs.1200/- has been recovered from the present petitioner.

Learned counsel for the petitioner, in rebuttal, 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 gone through the paper-book.

The petitioner has been in custody since 01.01.2021 and the investigation is complete and there are total 23 prosecution witnesses, out of whom, 7 witnesses are yet to be examined and thus, the trial is likely to take time. It is further submitted that the petitioner is not named in the FIR and the petitioner was implicated on the basis of the disclosure statement of co-accused. The complainant in the FIR is Kabir and the person who was sitting with Kabir in the car was one Kamal when the alleged incident had taken place and both the said Kabir and Kamal have been examined PW-2 and PW-3 and they have not supported the case of the prosecution and have been declared hostile and in their cross-examination, they have specifically stated that accused persons including the present petitioner are not the persons who had committed the alleged crime.

Keeping in view the above said facts and circumstances, 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.

September 06, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No