

213

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

CRM-M-3360-2022

Date of decision : 14.11.2022

Amritpal Singh @ Ammu

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Vikram Satpal Anand, Advocate for the petitioner.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

VIKAS BAHL, J. (ORAL)

This is the second petition filed under Section 439 of Cr.P.C. for grant of regular bail to the petitioner in FIR No.241 dated 15.12.2018 registered under Sections 302/450/34 of Indian Penal Code, 1860 and Sections 25/27 of the Arms Act, 1959 at Police Station Islamabad, District Police Commissionerate Amritsar.

Learned counsel for the petitioner has submitted that the petitioner is in custody since 26.12.2018 (more than 3 years and 10 months) and there are 37 prosecution witnesses, out of which, only 4 prosecution witnesses have been examined and thus, the conclusion of the trial is likely to take time. It is further submitted that the first bail application of the petitioner was dismissed as withdrawn on 03.12.2021

and even after the passing of the said order, a period of more than 11 months has elapsed and not much progress has been made in the trial. It is contended that the petitioner was not named in the FIR and even as per the reply dated 19.04.2022 filed by the State, the role ascribed to the present petitioner is that the petitioner was driving the motorcycle on which the main accused Angrej Singh was riding as a pillion rider and that the present petitioner and said Angrej Singh had entered into the house of Balwinder Kumar and it is Angrej Singh who had fired shots at him. It is further contended that there are no allegations to the effect that the present petitioner had caused any injury to any person.

On the other hand, learned State Counsel has opposed the present petition for grant of regular bail to the petitioner and has submitted that the motorcycle has been recovered from the present petitioner and the present petitioner is involved in other cases also. The other facts as stated by the learned counsel for the petitioner however, have not been disputed by him.

Learned counsel for the petitioner, in rebuttal to the said argument, 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.

In the present case, the petitioner is in custody since 26.12.2018 (more than 3 years and 10 months) and out of 37 prosecution witnesses, only 4 prosecution witnesses have been examined and thus, the conclusion of the trial is likely to take time. The earlier first bail application of the petitioner was dismissed as withdrawn on 03.12.2021 and even thereafter, substantial time has elapsed and trial has not been concluded. The petitioner has not been named in the FIR and has been implicated on the basis of disclosure statement of co-accused Gurjashanjeet Singh @ Chini and even as per the said disclosure statement, it is accused Angrej Singh who had fired upon deceased Balwinder Kumar, although, the petitioner was stated to be riding the motorcycle on which the said Angrej Singh was riding as the pillion rider. No injury has been attributed to the present petitioner.

Keeping in view the abovesaid facts and circumstances as well as law laid down in ***Maulana Mohd. Amir Rashadi's*** case (Supra), the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of

the trial Court/Duty Magistrate, 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.

14.11.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No