

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

(214)

CRM-M-6018-2022

Date of decision: - 17.02.2022

Shyam

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Anshumaan Dalal, Advocate,  
for the petitioner.

Mr. Gaurav Bansal, AAG, Haryana.

\*\*\*\*

VIKAS BAHL, J. (ORAL)

This is the first petition under Section 439 of Cr.P.C. for grant of regular bail in FIR No.426 dated 24.09.2021, under Section 25 of the Arms Act, registered at Police Station Sadar Rohtak, District Rohtak.

Learned counsel for the petitioner has submitted that in the present case, neither any injury, nor any overt act has been attributed to the present petitioner and as per the prosecution version, the petitioner tried to run away on seeing the police party and a country made pistol was recovered from the right-side pocket of the pant of present petitioner, which was found empty. It is further submitted that the petitioner has been in custody since 24.09.2021 and the challan has already been presented and there are 9 witnesses, none of whom have been examined.

It is further submitted that in the present case all the prosecution witnesses are police officials and the question of influencing the said witnesses does not arise.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that the petitioner is involved in seven other cases, out of which, four cases are under the Arms Act.

Learned counsel for the petitioner in rebuttal has submitted that the petitioner is on bail in all the said cases and has relied upon a 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.”*

Keeping in view the above-said facts and circumstances, moreso, the fact that neither any overt act, nor any injury has been attributed to the petitioner and even the country made pistol, which has been recovered from him, was found to be empty and the petitioner has

been in custody since 24.09.2021 and the challan has already been presented and there are 9 witnesses, none of whom have been examined and all the prosecution witnesses are stated to be police officials and thus, the question of influencing the said witnesses does not arise and in view of the law laid down by the Hon'ble Supreme Court in "Maulana Mohd. Amir Rashadi'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 / CJM, and subject to him not being required in any other case.

It is however made clear that in case the petitioner influences or threatens any witness, then it would be open to the State to move an application for cancellation of bail of 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.

**February 17, 2022**  
naresh.k

**( VIKAS BAHL )**  
**JUDGE**

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