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

CRM-M-5927-2022 (O&M)
Date of decision : 17.11.2022

Monu @ Mobilal

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Ivneet Singh Pabla, Advocate for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

Mr. Sudhir Hooda, Advocate for the complainant.

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of regular bail to the petitioner in FIR No.240 dated 05.09.2021 registered under Sections 148, 149, 302, 307, 201, 120-B of Indian Penal Code, 1860 and Sections 25-54-59 of the Arms Act, at Police Station Dujana, District Jhajjar.

Learned counsel for the petitioner has submitted that the petitioner is in custody since 14.10.2021 and investigation is complete and challan has been presented and there are 54 prosecution witnesses and since charges have not been framed thus, the conclusion of trial is likely to take time. It is further submitted that the petitioner was not named in the FIR, although 7 persons have been specifically named in the FIR. It is contended

that the petitioner has been implicated in the present case on the basis of confessional statement made by the petitioner in another case bearing FIR No.274 dated 30.09.2021 under Section 25 of the Arms Act, 1959, Police Station Sadar Bahadurgarh and even as per the said statement and also the subsequent statement, the role attributed to the present petitioner is of finding out the whereabouts of the deceased and informing the same to the main accused i.e. Pardeep. It is further contended that even as per the said statement, neither the petitioner was carrying any weapon, nor did he have any mobile phone. It is argued that no recovery has been effected from the present petitioner.

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 petitioner is involved in three other cases.

Learned counsel for the petitioner, in rebuttal to the said argument, has submitted that out of the abovesaid three cases, the petitioner has been acquitted in two cases and in the third case, he is on bail 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 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 learned counsel for the parties and has perused the paper book.

In the present case, the petitioner is in custody since 14.10.2021 and investigation is complete and challan has been presented and there are 54 prosecution witnesses and since charges have not been framed thus, the conclusion of trial is likely to take time. The petitioner was not named in the FIR, although 7 persons were specifically named in the FIR. The petitioner is sought to be implicated on the basis of the disclosure statement made by him in another case bearing FIR No.274 dated 30.09.2021 under Section 25 of the Arms Act, 1959, Police Station Sadar Bahadurgarh. Even as per the said disclosure statement and the supplementary statement made by the petitioner, there is no allegation that the petitioner had fired at the deceased or was carrying any weapon and the role attributed to the present petitioner is only of informing about the whereabouts of the deceased to the main accused. No recovery has been effected from 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.

All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid judgment.

17.11.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No