

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

(211 + 107)

CRM-M-8467-2022 (O&M)

Date of decision: - 19.05.2022

Gurtej Singh alias Ramna

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Ms. G.K. Mann, Senior Advocate  
with Mr. Gursewak Singh, Advocate,  
Mr. Sunil Kumar, Advocate  
and Mr. Jansher S. Bajwa, Advocate  
for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

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VIKAS BAHL, J. (ORAL)

CRM-18587-2022

Present application has been filed for placing on record the  
copy of necessary documents as Annexure P-8 (colly.)

Application is allowed, as prayed for. The documents  
(Annexure P-8 (colly.)) are taken on record, subject to all just exceptions.

CRM-M-8467-2022

This is a second petition filed under Section 439 Cr.P.C. for  
grant of regular bail to the petitioner in FIR No.14 dated 23.02.2021,  
registered under Sections 307, 325, 323, 500, 341, 148 and 149 IPC and  
Sections 25, 27/54/59 of the Arms Act, at Police Station Hathur, District  
Ludhiana Rural.

Learned Senior counsel appearing for the petitioner has submitted that in the present case, the petitioner is in custody since 10.05.2021 and there are 18 prosecution witnesses, none of whom have been examined, thus, the trial is likely to take time. It is further submitted that as per the FIR, the only injury that has been attributed to the petitioner was inflicted on the right leg with an iron rod and the said injury, at best, would attract Section 325 IPC. It is further submitted that the petitioner had earlier filed a petition for regular bail which was dismissed as withdrawn on 13.10.2021 with liberty to file a fresh petition after the complainant has been examined. Learned Senior counsel for the petitioner had referred to the order dated 07.03.2022 as well as the order dated 20.04.2022 passed by this Court and the same are reproduced as under: -

*"Learned Senior counsel for the petitioner has submitted that although, on 13.10.2021, the case was dismissed as withdrawn with liberty to file a fresh one after the injured- complainant is examined but inspite of the lapse of more than six and a half months, the said complainant has not been examined and as per her instructions, the said complainant has been declared as proclaimed offender.*

*Learned State counsel has pointed out that in the present case, charges have not been framed as yet and the case is now fixed for 14.03.2022 and with respect to the complainant having been declared proclaimed offender, he would seek instructions.*

*Adjourned to 06.04.2022.*

*In the meantime, the trial Court is directed to pass an order with respect to framing of charges/discharge of the accused, after considering the material on record.*

*(VIKAS BAHL)*

*JUDGE*

*07.03.2022"*

*Learned State counsel has pointed out that in the present case,*

*the complainant has not been examined.*

*Learned Senior counsel for the petitioner has submitted that the petitioner has been in custody since 10.05.2021 and has also referred to the zimini orders to show that the complainant is not appearing before the trial Court even in other cases, in which, the said complainant is an accused. It has also been pointed out that even the anticipatory bail petition filed by said Raminderjit Singh alias Ravi has been rejected by a Co-ordinate Bench of this Court, vide order dated 10.11.2021 and the said Raminderjit Singh is involved in large number of cases.*

*The case before the trial Court is stated to listed today.*

*Keeping in view the above-said facts and circumstances, this Court deems it appropriate to direct the State of Punjab to produce the said complainant for the purpose of his evidence on the next date of hearing.*

*The trial Court is requested to examine the said complainant in case he is produced by the State of Punjab.*

*Adjourned to 19.05.2022.*

*April 20, 2022*

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

Learned Senior counsel has argued that even now, the complainant has not been examined and as per her instructions, the complainant had gone abroad. It is further argued that even after the passing of order dated 13.10.2021, a period of more than 7 months has elapsed and neither the complainant has been examined, nor any other witness has been examined without any fault of the petitioner and the same would be a substantial change of circumstance so as to entitle the petitioner to file a second petition for grant of the concession of regular bail.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that a specific injury

inflicted upon the right leg of the complainant has been attributed to the petitioner and the injured had suffered a total of five injuries, out of which, four have been declared as grievous in nature. It is further submitted that in spite of the best efforts made by the police, the complainant could not be traced and he has been declared as a proclaimed offender in another FIR.

This Court has heard learned counsel for the parties and has gone through the paper-book.

The petitioner has been in custody since 10.05.2021 and there are 18 prosecution witnesses, none of whom have been examined, thus, the trial is likely to take time. The sole injury attributed to the petitioner is on the right leg of the complainant, which is a non-vital part, which, at best, could attract provisions of Section 325 IPC. The petitioner had earlier filed a petition for regular bail, which was dismissed as withdrawn on 13.10.2021 and a perusal of the said order, which has been reproduced herein above, would show that the same had been dismissed as withdrawn with liberty to file a fresh petition after the complainant is examined, but in spite of a lapse of more than seven months from the date of the withdrawal of the said petition, the complainant has not been examined and even the other witnesses have not been examined. It is the admitted case of the parties that the complainant has been declared as a proclaimed offender in FIR No.191/2016, registered under Sections 399 and 402 IPC and Sections 25 & 27 of the Arms Act, at Police Station Jagraon, District Ludhiana and thus, the chances of recording of his evidence in the near future are very less. The above-said facts entitle the

petitioner to file the present second petition for grant of regular bail.

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, 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.

**May 19, 2022**  
naresh.k

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

Whether reasoned/speaking?  
Whether reportable?

Yes/No  
Yes/No