

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-8922-2022

Date of decision : 03.03.2022

Mohammad Mustufa

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Mazlish Khan, Advocate
for the petitioner.

Mr.Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J.(ORAL)

This is a first petition under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR no.101 dated 30.05.2021 registered under Sections 148, 149, 323, 325, 307, 379-B IPC and Section 25 of the Arms Act, 1959 (Section 379-B IPC and Section 25 of the Arms Act have been deleted later on) at Police Station Nagina, District Nuh (Haryana).

Learned counsel for the petitioner has submitted that in the present case no injury has been attributed to the present petitioner and only allegation against the petitioner is that he along with co-accused Tasarvvur had snatched about Rs.2500/- from the pocket of son of the complainant, i.e. Sabir. It has been submitted that during investigation, the said allegation has been found to be false and Sections 379-B IPC and Section 25 of the Arms Act have been deleted. It has further been submitted that four co-accused persons have been arrested from whom, recovery has been effected.

It has also been submitted that in the present case, 14 persons have been arrayed as accused persons and the present petitioner has been falsely implicated on account of party faction although, he has nothing to do with the said offence. It has been stated that there is a delay of one day in registration of the FIR.

On advance notice, Mr. Praveen Bhadu, AAG, Haryana, appears and accepts notice on behalf of the respondent-State and has submitted that he is fully prepared to argue the matter and assist this Court. He has opposed the present petition for anticipatory bail and has submitted that the anticipatory bail application of co-accused Sahbaaz had come up before this Court which was withdrawn by the said Sahbaaz. It has further been submitted that in the present incident, five persons have been injured and the name of the petitioner has also been mentioned in the FIR. It has also been submitted that two more FIRs have been registered against the petitioner.

Learned counsel for the petitioner, in rebuttal, has submitted that the petitioner has been granted concession of bail in both the cases 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 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 perused the paper book.

A perusal of the FIR would show that neither any injury has been attributed to the present petitioner nor it has been mentioned that the petitioner was carrying or armed with any weapon. The only allegation against the petitioner is that he along with Tasarvvur, had snatched Rs.2500/- from the pocket of the son of the complainant, i.e. Sabir. The allegation of offence under Section 379-B IPC and Section 25 of the Arms Act was found to be false and accordingly, these sections were deleted as has been recorded in the order dated 23.02.2022 (Annexure P-1) passed by Additional Sessions Judge, Mewat. Four persons who had caused injury to the complainant and injured, have been arrested and recoveries have been made from them. There are total 14 persons who have been named in the FIR and thus, the plea of the petitioner that the petitioner has been falsely implicated only on account of party faction cannot be outrightly rejected. There is a delay of one day in registration of the FIR.

Keeping in view the above said facts and circumstances and in view of the law laid down in **Maulana's** case (supra), the present petition for anticipatory bail is allowed and in the event of arrest, the petitioner is ordered to be released on bail subject to his furnishing personal bonds and surety to the satisfaction of Arresting / Investigating Officer. The petitioner shall join the investigation as and when called upon to do so and shall abide

It is made clear, in case, the petitioner fails to join the investigation, then the State would be at liberty to move an application for cancellation of the present anticipatory 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 petition.

(VIKAS BAHL)
JUDGE

March 03, 2022
Davinder Kumar

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