

218

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

CRM-M-9433-2022
Date of decision : 12.12.2022

Bala Verma

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Vaibhav Sehgal, Advocate for the petitioner.

Mr. Ramdeep Partap Singh, Sr. DAG, Punjab.

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of regular bail to the petitioner in FIR No.230 dated 08.11.2021 registered under Sections 304, 34 of Indian Penal Code, 1860 at Police Station Jamalpur, Ludhiana.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case solely on the basis of suspicion. It is further submitted that dead body of son of the complainant was found from the house of one Prabhjeet Singh and not the present petitioner. It is contended that the petitioner has no link with Prabhjeet Singh and the said Prabhjeet Singh is not related to her. It is further contended that a perusal of the FIR would show that apparently, the complainant had carried out investigation of his own and had named the present petitioner. It is argued that neither there is any eye-witness in the present case, nor there is any linking evidence to prove

any connection between the petitioner and the said Prabhjeet Singh and as per the report of Chemical Examiner, it had been found that no poison had been detected in the content which was sent for chemical examination. It is further argued that the petitioner is in custody since 08.11.2021 and investigation is complete and challan has been presented and there are 14 prosecution witnesses, out of which, two prosecution witnesses have been examined as yet, and thus, the conclusion of trial is likely to take time. It is also submitted that the other witnesses are official witnesses and the question of influencing them would not arise.

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 more cases.

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.”

Keeping in view the abovesaid facts and circumstances more so,

the facts that in the present case, the petitioner is in custody since 08.11.2021 and investigation is complete and challan has been presented and out of 14 prosecution witnesses, only two prosecution witnesses have been examined as yet, and thus, the conclusion of trial is likely to take time and also the fact that the dead body of son of the complainant had been recovered from the house of Prabhjeet Singh and as per affidavit dated 07.12.2022 filed by the Assistant Commissioner of Police, Industrial Area-A, Ludhiana, there is no substantial material to link the petitioner with the said Prabhjeet Singh and also in view of the fact that as per the report of the Chemical Examiner, no poison had been detected in the content which was sent for chemical examination and also in view of the 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 her furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate, subject to her 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.

12.12.2022*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:- Yes/No****Whether reportable:- Yes/No**