

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(212)

CRM-M-9693-2022

Date of decision: - 11.03.2022

Amit

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Abhinav Sood, Advocate,
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of regular bail to the petitioner in FIR No.680 dated 10.11.2021, registered under Sections 148, 149, 323, 427, 452 and 506 IPC and Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, at Police Station City Palwal, Tehsil and District Palwal.

Learned counsel for the petitioner has submitted that in the present case, the FIR which has been reproduced at page 2, is not the complete FIR and thus, the vernacular of FIR be read for the purpose of adjudicating the present case. It is submitted that as per the FIR, the present petitioner, Rahul and Sameer @ Nikki have been attributed the

same role. It is further submitted that no specific injury has been attributed to any of the accused and all the injuries suffered by the complainant are simple in nature. It is further submitted that co-accused of the petitioner, namely, Sameer @ Nikki as well as Rahul have been granted the benefit of regular bail by the Additional Sessions Judge, Palwal, vide order dated 25.11.2021 (P-2) and 10.12.2021 (P-3) and the only reason why the petitioner has not been granted the bail that he is involved in two other cases, whereas, the present petitioner has been granted the bail in the said cases.

Learned counsel for the petitioner 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.”

It is further submitted that the petitioner has been in custody since 11.11.2021 and there are 15 witnesses, out of which, none have been examined and thus, the conclusion of the trial of the case is likely to take time moreso, in view of the present COVID-19 pandemic.

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 along with other co-accused had committed the offence by entering the house of the complainant and the petitioner is involved in two other cases.

This Court has heard the learned counsel for the parties and has perused the paper book.

It is not in dispute that the allegations against the present petitioner as well as Sameer @ Nikki and Rahul are also to the same effect. The said co-accused-Sameer @ Nikki and Rahul have already been granted the benefit of regular bail by the Additional Sessions Judge, Palwal, vide order dated 25.11.2021 (P-2) and 10.12.2021 (P-3) respectively. There is no specific injury which has been attributed to the petitioner. The three injuries, which have been caused to the complainant, are also stated to be simple in nature. The petitioner has been in custody since 11.11.2021 and there are 15 witnesses, out of which, none have been examined and thus, the conclusion of the trial of the case is likely to take time, moreso, in view of the present COVID-19 pandemic.

Keeping in view the abovesaid facts and circumstances as well as in view of law laid down in **Maulana Mohd. Amir Rashadi's case (supra)**, the present petition for regular bail is allowed and the petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate and 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.

March 11, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No