

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-12095-2022
Date of decision : 07.09.2022

Sachin alias Sachhu

... Petitioner

Versus

The State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Mandeep Nehra, Advocate
for the petitioner.

Mr.Munish Sharma, AAG, Haryana.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.188 dated 08.09.2021 registered under Sections 379-A, 34, 201 IPC at Police Station Farakpur, District Yamuna Nagar.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 19.10.2021 and there are 11 witnesses out of which, only one witness has been examined and thus, the trial is likely to take time. It is further submitted that the complainant in the present case has already been examined and the recovery has already been effected. It is also submitted that the petitioner was not named in the FIR and was arrested on the basis of secret information in another case and thereafter, the petitioner was implicated in the present case during the investigation in the said other FIR.

Learned State counsel, on the other hand, has opposed the

present petition for regular bail and has submitted that the petitioner is involved in several other cases and is, thus, a habitual offender.

Learned counsel for the petitioner, in rebuttal, 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.

The petitioner has been in custody since 19.10.2021 and there are 11 witnesses, out of which only one witness has been examined, thus, the trial is likely to take time. The complainant has already been examined in the present case and the recovery has already been effected.

Keeping in view the above said facts and circumstances and in view of the law laid down in the ***Maulana's*** case (supra), 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

However, it is made clear that in case, any act is done by the petitioner to threaten or influence 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 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.

(VIKAS BAHL)
JUDGE

September 07, 2022
Davinder Kumar

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