

S.No.209

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

CRM-M-13915 of 2021

Date of Decision:06.04.2022

Anil alias SanjuPetitioner

Vs.

State of PunjabRespondent

CORAM:- HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Rakesh Bakshi, Advocate for the petitioner.
Mr. Sarabjit S. Cheema, AAG, Punjab.

VIKAS BAHL, J.

The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.12 dated 13.01.2021 registered under Section 25 of Arms Act and Section 411 of IPC at Police Station Lalru, District S.A.S. Nagar.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case and even as per the allegation in the FIR, no overt act has been attributed to the petitioner and the recovery has already been effected from the petitioner and the co-accused. It is further submitted that co-accused of the petitioner, namely, Rajdeep alias Bunty who is similarly placed as the petitioner, has already been granted regular bail by a co-ordinate Bench of this Court vide order dated 09.03.2021. It is also submitted that the petitioner was arrested on 13.01.2021 and after remaining in custody for five months, the petitioner was released on interim bail on account of Covid-19 Pandemic. The challan has been presented and there are 12 prosecution witnesses, none of whom have been examined and the trial is likely to take time.

Learned State Counsel has opposed the present application for

regular bail and has stated that the petitioner is involved in two other cases. It is further submitted that since the petitioner is enlarged on interim bail, he will first have to surrender, and only then he could be released on bail.

Learned counsel for the petitioner in rebuttal has submitted that out of two cases, in one case, the petitioner has already been acquitted and in the other case, he is already on bail. He has further submitted that as per settled law, it is the facts of the present case which are required to be considered for the purpose of deciding the present bail application. For the said proposition, learned counsel for the petitioner has relied upon judgment dated 16.01.2012 passed by the Hon'ble Supreme Court in Criminal Appeal No.159 of 2012 titled as ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and others*** 2012 (2) SCC 382 reference has been made to the relevant portion of paragraph 6 which 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 paperbook.

A perusal of the FIR would show that no overt act has been attributed to the petitioner. The recovery from the petitioner and the co-accused Rajdeep @ Bunty has already been effected. Rajdeep @ Bunty, who is similarly placed as the present petitioner, has already been granted bail by a co-ordinate Bench of this Court vide order dated 09.03.2021

passed in CRM-M-10265 of 2021. The petitioner was arrested on 13.01.2021 and after five months of custody, he was released on interim bail on account of Covid-19 Pandemic. The challan in the present case has already been presented. There are 12 witnesses and none of them have been examined. Thus, the trial of the case is likely to take time.

Keeping in view the abovesaid facts and circumstances, and also in view of the law laid down in all the abovesaid judgments, the present petition is allowed, subject to the condition that the petitioner would surrender within a period of ten days from today. In case the petitioner surrenders within a period of ten days from today then, he 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 his 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 application.

April 06, 2022
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(VIKAS BAHL)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No