

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

217-2

CRM-M-14017-2022
Decided on :11.05.2022

Devender @ Pahalwan

. . . Petitioner

Versus

State of Haryana

. . . Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Amit Choudhary, Advocate
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

VIKAS BAHL, J. (Oral)

The present petition has been filed under Section 439 of Cr.P.C. for grant of regular bail to the petitioner in case FIR No. 27 dated 17.01.2021 under Sections 395 and 397 of IPC, 1860 (Section 120-B added later on) registered at Police Station Hisar Sadar, District Hisar.

Learned counsel for the petitioner has submitted that the petitioner has not been named in the FIR and it is only on the disclosure statement of co-accused Vijay that the petitioner has been implicated in the present case. It is further submitted that a compromise dated 02.03.2021 had been arrived at between the parties as per which, the complainant had submitted that the accused persons were implicated only on the basis of suspicion and thus, he does not wish to pursue the case against the petitioner and the other co-accused and thereafter, a

petition under Section 482 Cr.P.C. for quashing of the FIR on the basis of compromise has already been filed before this Court. It is contended that PW-1 Balbir, complainant and PW-2 Sunil have already been examined and both the witnesses have not supported the case of the prosecution. It is further contended that the petitioner has been in custody since 07.05.2021 and there are as many as 17 witness, out of whom 15 witnesses are yet to be examined and thus, the trial is likely to take time.

Learned counsel for the petitioner has further submitted that the co-accused namely Sunil @ Lambu, who is similarly placed as the present petitioner, has already been granted the concession of regular bail vide order dated 02.03.2022 passed in CRM-M-51132-2021.

Learned State counsel has opposed the present application for regular bail and has submitted that the petitioner is involved in several other cases.

Learned counsel for the petitioner, in rebuttal, has submitted that the petitioner has been acquitted in most of the cases and in two cases in which he has been convicted, he has already undergone the sentence awarded to him. 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.

It is not in dispute that the petitioner has not been named in the FIR. The petitioner has been implicated in the case on the basis of the disclosure statement of the co-accused Vijay. A compromise dated 02.03.2021 has been effected between the parties and the said fact has been noticed in the impugned order vide which the regular bail of the petitioner has been rejected. As per the said compromise, the complainant has submitted that the petitioner and the other accused who have been proceeded against, was on the basis of suspicion and he does not wish to pursue the case against the petitioner and the other accused and both the parties would seek quashing of the FIR on the basis of compromise by filing a petition under Section 482 Cr.P.C. It has been stated by learned counsel for the petitioner that the said petition has been filed and is pending adjudication. Complainant has been examined as PW-1 and in his

evidence in chief, he has stated that he does not know the persons who had robbed him and has further stated that the accused persons, present in the Court, are not the persons who had robbed his car. Even, PW-2 Sunil has stated in his cross examination that he cannot identify any of the accused persons who were present in the Court. The petitioner has been in custody since 07.05.2021 and the challan has already been presented and there are as many as 17 witnesses out of whom, 15 witnesses are yet to be examined and thus, the trial is likely to take time. The co-accused of the petitioner namely Sunil @ Lambu, who is on similar footing as that of the present petitioner, has already been granted the concession of regular bail vide order dated 02.03.2022 passed in CRM-M-51132-2021.

Keeping in view the abovesaid facts and circumstances and also in view of the law laid down in Maulana's (supra) case, 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, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

May 11th,2022
Mehak

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No