

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(219)

CRM-M-14785-2022

Date of decision: - 19.04.2022

Sumit alias Mitu

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Abhinav Kalia, Advocate
for Mr. Harish Bhardwaj, Advocate
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

This is a first bail application under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.188 dated 13.07.2020, registered under Sections 397 and 201 IPC and Sections 25-54-59 of the Arms Act, at Police Station Uchana, District Jind.

Learned counsel for the petitioner has submitted that in the present case, the FIR has been registered on the complaint of complainant Parveen Kumar and as per the allegations in the FIR, five unknown persons had snatched his bag having cash from him. It has further been submitted that the said complainant, who is the star witness of the present case, has not supported the case of the prosecution and has stated in his statement dated 02.02.2022 that five unknown persons had snatched cash from him and he had seen the accused persons through VC and they were

not the persons who had snatched cash from him. It is further submitted that although as per the FIR, there were five unknown accused persons, but the prosecution has arrested six persons with respect to the present incident. It is further submitted that in the present case, initially four persons were arrested and thereafter, one Deepak was arrested and the present petitioner was nominated as the sixth accused on the basis of the disclosure statement made by the first four accused who were arrested. It is further submitted that the petitioner has been in custody since 29.12.2020 and the challan has already been presented and out of total 23 prosecution witnesses, four have been examined and still 19 witnesses are to be examined and thus, the trial is likely to take some time.

Learned State counsel has opposed the present petition for regular bail and has submitted that the petitioner is a habitual offender, inasmuch as, there are five other cases registered against him.

Learned counsel for the petitioner in rebuttal has submitted that the petitioner has been granted regular bail in three of the said other cases and 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.”

This Court has heard learned counsel for the parties and gone through the paper-book.

The FIR has been registered on the complaint of complainant Parveen Kumar, who had alleged that five unknown persons had snatched his bag which had cash amounting to Rs.8,05,800/- from him. The said complainant has been examined as PW-4 and in his examination-in-chief, he had stated that some unknown persons had snatched the cash from him and he had seen the accused persons in the VC in the Court and they were not the persons who had snatched the cash from him. Thus, the star witness (PW-4) had not identified the present petitioner as one of the persons, who had committed the alleged crime. Moreover, as per the FIR, there were five unknown persons, whereas, the prosecution had implicated six persons in all and the present petitioner is the sixth person to be arrayed as an accused in the case and he has been involved on the basis of the disclosure statement made by the four accused persons who had been arrested at the first instance. The petitioner has been in custody since 29.12.2020 and there are 19 prosecution witnesses, who are yet to be examined and the complainant has already been examined in the present case.

Keeping in view the above-said facts and circumstances and as well as 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 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 case.

It is made clear that in case the petitioner influences or threatens any witness, then it would be open to the State to move an application for cancellation of bail of the petitioner.

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 petition.

April 19, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No