

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

(214)

CRM-M-15609-2022

Date of decision: - 22.04.2022

Harbans Kaur

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Naveen Sharma, Advocate  
for the petitioner.

Mr. Sukhbeer Singh, AAG, Punjab.

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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.261 dated 15.06.2021, registered under Sections 408, 420, 465, 467, 468, 471 and 120-B IPC, (Sections 408 IPC deleted and Section 409 IPC added later) at Police Station Division No.5, District Police Commissionerate, Ludhiana.

Learned counsel for the petitioner has submitted that in the present case, as per the allegations in the FIR, the petitioner had allegedly duped the complainants Rajinder Kaur and Jasleen Kaur of an amount of Rs.36 lakhs, but as per the MOU dated 09.08.2019 (Annexure P-2), the total amount which the petitioner had received from four persons i.e. Gagandeep Kaur, Kulvir Singh, Anoopinder Singh (husband of

complainant-Jasleen Kaur) and Rajinder Kaur (other complainant) is Rs.20 lakhs and not Rs.36 lakhs. A further perusal would show that an amount which has been taken by the petitioner from Rajinder Kaur (complainant) and Anoopinder Singh (husband of complainant Jasleen Kaur) is Rs.10 lakhs and the said entire amount including the amount due to the complainant Rajinder Kaur and husband of complainant Jasleen Kaur has been returned, but however, the blank cheques have not been returned to the petitioner. It is further submitted that the said MOU (P-2) has not been taken into consideration by the Additional Sessions Judge, Ludhiana, on account of the fact that two first pages of the compromise have not been signed by the complainant party. It is submitted that even the third page of the said compromise, which is signed by complainant Rajinder Kaur and Anupinder Singh (husband of complainant Jasleen Kaur), would show that it has been stated that the money has been returned. It is further submitted that the petitioner has been in custody since 17.06.2021 and there are total 14 prosecution witnesses, none of whom have been examined, thus, the trial is likely to take time. It is further submitted that the entire case is based on documents and thus, no purpose would be served by keeping the petitioner in custody. It is also submitted that the present case is triable by the magistrate.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that the petitioner is involved in three other cases of similar type and thus, the applicant-appellant does not deserve the concession of regular bail.

Learned counsel for the petitioners 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 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.

Although, the allegations in the FIR are that the petitioner had duped complainants Rajinder Kaur and Jasleen Kaur, who are related to each other, but, the petitioner has relied upon the MOU dated 09.08.2019 (P-2) to contend that as per the said compromise, it is apparent that the entire money which was taken by the petitioner has been returned to the complainants. The said compromise has been rejected by the Additional Sessions Judge, Ludhiana, by observing that first two pages of the compromise have not been signed by the complainant party. Learned counsel for the petitioner has highlighted the fact that third page of the said compromise itself would show that the money has been returned and the last page of the said compromise has been signed by complainant Rajinder Kaur and Anoopinder Singh, who is the husband of

Jasleen Kaur and all are related to each other. The question as to whether the said MOU dated 09.08.2019 (P-2) is genuine or not, would be adjudicated during the course of trial. The petitioner has been in custody since 17.06.2021 and the challan has already been presented and there are 14 prosecution witnesses, none of whom have been examined, thus, trial is likely to take time. Moreover, the present case is triable by the Magistrate.

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 her 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.

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 22, 2022**  
naresh.k

**( VIKAS BAHL )**  
**JUDGE**

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| Whether reasoned/speaking? | Yes |
| Whether reportable?        | No  |