

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

219

CRM-M-15385-2022
Decided on : 04.08.2022

Mohd. Nadeem

. . . Petitioner

Versus

State of Punjab

. . . Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Jitender Singh Dadwal, Advocate
for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

VIKAS BAHL, J. (Oral)

The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No. 106 dated 05.06.2021 under Sections 307, 326, 325, 324, 323, 451, 506, 148, 149 and 120-B of the Indian Penal Code, 1860 (Section 201 IPC added later on) and Sections 25, 54 and 59 of the Arms Act registered at Police Station Tibba, District Ludhiana.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 19.06.2021 and there are as many as 26 prosecution witnesses out of whom, none have been examined and thus, the trial is likely to take time. It is further submitted that the petitioner is not named in the FIR although, 6 persons have been specifically named in the FIR. It is contended that the petitioner has been implicated in the present case on the basis of the supplementary statement of the

complainant dated 16.06.2021 which has been recorded after a period of 11 days of the registration of the FIR and in the said supplementary statement also, no specific attribution has been made to the present petitioner and it has not been stated as to on what basis, the complainant learnt that the petitioner is also involved in the present case. It is argued that the co-accused of the petitioner namely Jaswinder Singh @ Paras @ Monu Gora, from whom recovery of pistol was effected, has already been granted the concession of regular bail vide order dated 22.03.2022 passed in CRM-M-51538-2021.

Learned State counsel has opposed the present application for regular bail and has submitted that in the present case, three persons have been injured. Akash Soni has received 15 injuries all of which are grievous and Kamal Kumar has received 18 injuries and Swaranjit Singh has suffered 7 injuries. It is further submitted that the petitioner is involved in large number of other cases.

Learned counsel for the petitioner has rebutted the said argument and submitted that the petitioner is on bail in all the abovesaid cases and 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.

The petitioner has been in custody since 19.06.2021 and the challan in the present case has already been presented and there are as many as 26 prosecution witnesses, out of whom, none have been examined and thus, the trial is likely to take time. The petitioner is not named in the FIR, although, 6 persons were specifically named in the FIR. The petitioner has been implicated as an accused on the basis of the supplementary statement of the complainant dated 16.06.2021, which was recorded after a delay of 11 days from the registration of the FIR and no specific attribution had been made against the present petitioner in the said statement also. It has also not been stated from where the complainant had learnt that the present petitioner is also involved in the present case. The co-accused of the petitioner namely Jaswinder Singh @ Paras @ Monu Gora has already been granted the concession of regular bail vide order dated 22.03.2022 passed in CRM-M-51538-2021.

Keeping in view the abovesaid facts and circumstances, moreso, the law laid down in Maulana's (*supra*) case, 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.

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.

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

(VIKAS BAHL)
JUDGE

04.08.2022
Mehak

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