

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

218

CRM-M-16232-2022(O&M)  
Decided on :27.04.2022

Farukh Khan

. . . Petitioner

Versus

State of Haryana

. . . Respondent

**CORAM: HON'BLE MR. JUSTICE VIKAS BAHL**

PRESENT: Mr. Man Mohan, Advocate  
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

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**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. 115 dated 26.06.2020 under Section 136 of the Electricity Act, 2006 of the Indian Penal Code, 1860 registered at Police Station Babain, District Kurukshetra.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 04.02.2021 and the challan in the present case has already been presented and there are as many as 16 witnesses, none of whom have been examined and thus, the trial is likely to take time. It is further submitted that the case is triable by the Magistrate and the maximum sentence awarded under Section 136 of the Electricity Act, 2006 is 3 years. It is also submitted that the petitioner was not named

in the FIR and was made an accused on the basis of the disclosure statement given by the petitioner in another FIR.

Learned State counsel, on the other hand, has opposed the present application for regular bail and has submitted that the petitioner is involved in 35 other cases and after the disclosure statement was made by the petitioner in another FIR, a recovery of 4 kg 500 gms. of copper wire has been effected from the petitioner.

Learned counsel for the petitioner, in rebuttal, has submitted that the petitioner has already been granted bail in 29 of the said 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 is in custody since 04.02.2021, challan in the present case has already been presented and there are 16 witnesses out of whom, none have been examined and thus, the trial is likely to take time. The offence in the present case is triable by the Magistrate. The maximum sentence awarded under Section 136 of the Electricity Act, 2006 is 3 years and the petitioner was not named in the FIR and has been implicated in the present case on the basis of the disclosure statement made by the petitioner in another case. The recovery has already been effected from the petitioner.

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 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 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.

All the pending miscellaneous applications, if any, stand disposed of, in view of the abovesaid order.

(VIKAS BAHL)  
JUDGE

April 27<sup>th</sup> 2022  
*Mehak*

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