

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-20938-2022(O&M)

Date of decision : 19.05.2022

Dalbir Singh @ Dalvir Singh @ Dira @ Kala

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Akbarjit Singh, Advocate
for the petitioner.

Mr.Hittan Nehra, Addl.A.G. Punjab.

VIKAS BAHL, J.(ORAL)

This is a first application under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.191 dated 10.11.2008 registered under Sections 447, 506, 148, 149 IPC and Sections 3 and 4 Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 at Police Station Nurmahal, Jalandhar.

Learned counsel for the petitioner has submitted that as per the FIR, there is no specific allegation against the petitioner whereas specific allegations have been made against Santokh Singh and said Santokh Singh along with three other co-accused was tried for the alleged offences and they were acquitted vide judgment dated 20.01.2011. It is further submitted that the case of the petitioner is on higher footing than the said Santokh Singh and other co-accused. It is stated that the petitioner was under the impression that the petitioner is not an accused in the present FIR and has

been presented and since the charges have not been framed, thus, the trial is likely to take time.

Learned State counsel, on the other hand, has opposed the present petition and has submitted that the FIR was registered in the year 2008 and the petitioner was declared proclaimed offender on 24.03.2009 and the petitioner had not appeared before the Court for all these years and does not deserve the concession of regular bail. It is further submitted that the petitioner is involved in three other cases.

Learned counsel for the petitioner, in rebuttal, has submitted that the petitioner is on bail in all three cases. He 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 while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other cases. 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 has perused the paper book.

A perusal of the FIR would show that there are no specific allegations against the petitioner and the primary allegation has been made against Santokh Singh and the said Santokh Singh, along with three other

co-accused, was tried by the Additional Sessions Judge, Jalandhar and all the co-accused was acquitted vide judgment dated 20.01.2011. It is the case of the petitioner that the said judgment has attained finality. It is further the case of the petitioner that he was not aware of the said proceedings and the petitioner has been in custody since 01.02.2022 and supplementary challan has already been filed and charges have not been framed, thus, the trial is likely to take time. It is further submitted that the case of the petitioner is on a better footing than the said Santokh Singh and other co-accused.

Keeping in view the abovesaid facts and circumstances and in view of law laid down in ***Maulana'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.

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.

Pending miscellaneous application, if any, stands disposed of in view of the abovesaid order.

(VIKAS BAHL)
JUDGE

May 19, 2022
Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No