

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(209)

CRM-M-19721-2022 (O&M)

Date of decision: - 26.08.2022

Nitin @ Ginni

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Joginder Sharma, Advocate
for Mr. Surinder Gandhi, Advocate,
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

CRM-30883-2022

Present application has been filed under Section 482 Cr.P.C.
for placing on record the statements as Annexures P-5 to P-7.

Application is allowed, as prayed for. The statements
(Annexures P-5 to P-7), are taken on record, subject to all just exceptions.

CRM-M-19721-2022

This is a first petition under Section 439 Cr.P.C. for grant of
regular bail to the petitioner in FIR No.123 dated 21.02.2020, under
Sections 307, 392 and 506 of the Indian Penal Code, 1860 and Sections
25/54/59 of the Arms Act, registered at Police Station Shivaji Colony,
Rohtak.

Learned counsel for the petitioner has submitted that the

petitioner has been in custody since 11.08.2020 and the investigation is complete and the challan has been presented and there are total 15 prosecution witnesses, out of whom, 11 witnesses are yet to be examined and thus, the trial is likely to take time. It is further submitted that the petitioner is not named in the FIR and was implicated on the basis of disclosure statement of petitioner recorded in FIR No.67 dated 21.02.2020 and that no recovery was made from the present petitioner. It is further submitted that the FIR in the present case was recorded on the statement of Sudhir, who was an eye witness and as per the FIR, Jagbir who is owner of the petrol pump and Naresh who is a salesman, had arrived at the spot and all the said three witnesses have been examined and they have not supported the case of the prosecution and have been declared hostile. Learned counsel for the petitioner has further submitted that there is no injury which has been declared dangerous to life in the present case.

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 more cases.

Learned counsel for the petitioner, in rebuttal, has submitted that the petitioner is on bail in the said 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 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 gone through the paper-book.

The petitioner has been in custody since 11.08.2020 and the investigation is complete and the challan has been presented and there are total 15 prosecution witnesses, out of whom, 11 witnesses are yet to be examined and thus, the trial is likely to take time. The petitioner is not named in the FIR and sought to be implicated on the basis of disclosure statement of petitioner made in FIR No.67 dated 21.02.2020, but no recovery has been made from the petitioner. There is no injury which has been declared to be dangerous to life. As per the FIR, Sudhir, Jagbir, who is the owner of the petrol pump where the alleged occurrence had taken place and Naresh, who is a salesman, are the star witnesses in the present case and all the said witnesses have been examined and they have not supported the case of the prosecution and have been declared hostile. Sudhir and Naresh have been examined as PW-2 and PW-4, respectively and in their statements, they have specifically stated that they have seen the accused persons including the petitioner, but they are not the persons who committed the alleged offence. Jagbir has been examined as PW-3

and he has stated that the police did not record his statement and he has not seen the incident of snatching.

Keeping in view the above said facts and circumstances, 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, it is made clear that in case, any act is done by the petitioner to threaten or influence the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioner.

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.

August 26, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No