

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(220)

CRM-M-20094-2022

Date of decision: - 16.05.2022

Vikas

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Ashok K. Sharma Bhana, Advocate, for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

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.92 dated 19.06.2019, registered under Section 136 of the Electricity Act, at Police Station Garhi, District Jind.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 23.12.2020 and the challan has already been presented and there are 13 prosecution witnesses, out of which, three have been examined, thus, the trial is likely to take time. It is further submitted that in the present case the petitioner was not named in the present FIR and has been implicated on the basis of his disclosure statement made in another FIR No.227 dated 06.10.2020. It is further submitted that the petitioner was arrested in the said FIR No.227 and was thereafter wrongfully made an accused in all other FIRs pertaining to the theft of transformers/coil etc.. It is further submitted that the recovery has

already been effected from the petitioner and no purpose would be served in keeping the petitioner in further incarceration. It is further submitted that the petitioner had also been implicated in FIR No.69 dated 27.04.2020 registered under Section 136 of the Electricity Act, at Police Station Julana, District Jind and in the said case, a Co-ordinate Bench of this Court, vide order dated 04.05.2022 passed in CRM-M-17351-2022, has granted regular bail to the petitioner.

Learned State counsel has opposed the present petition for the grant of regular bail and has submitted that the petitioner is involved in 10 other cases.

Learned counsel for the petitioner, in rebuttal, has relied upon a judgment of the 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 23.12.2020 and the

challan has already been presented in this case and there are 13 witnesses, out of which three have been examined, thus, the trial is likely to take time. The petitioner was not named in the FIR and has been implicated on the basis of disclosure statement made by him in FIR No.277 dated 06.10.2020. Moreover, the recovery has already been effected from the petitioner. Further, the petitioner has already been granted bail in FIR No.69 dated 27.04.2020, registered under Section 136 of the Electricity Act, at Police Station Julana, District Jind, in which, the allegations against the present petitioner are similar to the allegations made in the present case.

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.

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

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.

May 16, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No