

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-20850-2022

Date of decision : 23.05.2022

Ajay

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHLPresent: Mr.Salil Dev Singh Bali, Advocate
for the petitioner.

Mr.Munish Sharma, AAG, Haryana.

VIKAS BAHL, J.(ORAL)

Learned counsel for the petitioner has pointed out that Section 201 IPC has been added later on in the FIR and thus, has orally prayed that the said Section 201 IPC be read into the head note as well as prayer clause of the present petition.

In view of the oral prayer made, Section 201 IPC be added in the head note as well as in the prayer clause of the present petition and the Registry is directed to carry out the necessary correction.

This is a first petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.806 dated 24.12.2021 registered under Sections 379, 420 IPC (Sections 120B and 201 IPC added later on) at Police Station Azad Nagar, Hisar, District Hisar accordingly.

Learned counsel for the petitioner has submitted that the petitioner is not named in the FIR and as per the FIR, there was only one person who had come to the complainant and had taken his ATM card and had explained to him how to use the same. It is further submitted that even

stated that during the course of the investigation, the relevant CCTV footage near the SBI ATM machine was seen and as per that the presence of the petitioner was not seen in the CCTV footage but his car had been used and the said car, as per the disclosure statement of the petitioner, had been taken away by his real brother and his cousin. It is also stated that the petitioner has been in custody since 07.02.2022 and the challan has already been presented in the present case and the case is triable by a Magistrate. There are 20 prosecution witnesses and none of them have been examined and thus, the trial is likely to take time.

Learned State counsel, on the other hand, has opposed the present petition and has submitted that in the present case recovery of Rs.15,000/- has been effected from the present petitioner and it is the car of the petitioner which was used in the commission of the crime and as per the disclosure statement of the petitioner, the petitioner was involved in the said conspiracy with two other persons. It is also submitted that the petitioner is involved in one more case.

Learned counsel for the petitioner, in rebuttal, 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.

Neither the petitioner was named in the FIR, nor the petitioner was seen in the said CCTV footage. It is the car of the petitioner which was seen in the CCTV footage and as per the disclosure statement of the petitioner, the said car was being used by his brother and his cousin. The petitioner has been in custody since 07.02.2022 and the challan in the present case has already been presented and the case is triable by a Magistrate and there are 20 prosecution witnesses and none of them have been examined and thus, the trial is likely to take time.

Keeping in view the above said facts and circumstances and in view of the 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.

May 23, 2022
Davinder Kumar

(VIKAS BAHL)
JUDGE

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