

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(210)

CRM-M-21057-2022

Date of decision: - 20.05.2022

Rajwinder Singh @ Gaggi

....Petitioner

Versus

The State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Jatinder Pal Singh Brar, Advocate,
for the petitioner.

Mr. M.S. Nagra, Assistant Advocate General, Punjab.

VIKAS BAHL, J. (ORAL)

This is a second bail application under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.164 dated 22.09.2020, registered under Sections 379, 411, 413 and 473 IPC, at Police Station City South, Moga, District Moga.

Learned counsel for the petitioner has submitted that in the present case, the petitioner is in custody since 26.09.2020 (1 year, 07 months and 23 days) and there are 14 prosecution witnesses, out of which, only one has been examined and thus, the trial is likely to take time. It is also submitted that the recovery has already been effected from the present petitioner, therefore, no purpose would be served by keeping him in further custody.

Learned State counsel, on the other hand, has opposed the present petition for the grant of regular bail and has submitted that the recovery of five motorcycles has been made from the present petitioner and the earlier petition for regular bail filed by the petitioner was withdrawn on 09.02.2021. It is further submitted that the petitioner has been involved in one more case registered under Sections 379-B and 411 IPC and he has been released on bail in the said by the Additional Sessions Judge, Moga, vide order dated 05.11.2019.

Learned counsel for the petitioner, in rebuttal, has submitted that even after 09.02.2021 a period of more than one year and three months has elapsed and the trial has also made no progress, thus, the said circumstance is a changed circumstance so as to entitle the present petitioner to file the second bail petition. Further, learned counsel for the petitioner 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 is stated to be in custody since 26.09.2020 and out of 14 prosecution witnesses, only one has been examined and thus, the trial is likely to take time. The recovery has already been effected from the present petitioner and earlier bail petition of the petitioner was withdrawn on 09.02.2021 and even since 09.02.2021, a substantial period of more than 1 year and 3 months has already elapsed and yet, the trial has made no progress. The above-said facts would entitle the petitioner to file the present second petition for grant of regular bail.

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

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 20, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No