

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-23086-2022

Date of decision : 15.09.2022

Sagar

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.S.K.Tripathi, Advocate for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J.(ORAL)

This is a first petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.483 dated 13.12.2021 registered under Sections 379B, 341, 34 IPC at Police Station Ballabgarh Sadar, District Faridabad.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 23.12.2021 and the investigation is complete and the challan has already been presented and there are 12 witnesses and out of which, only two have been examined and thus, the trial is likely to take time. It is submitted that the FIR in the present case has been registered on the complaint filed by Ujjwal on the allegations that 3 /4 persons had snatched an amount of Rs.16,200/- from his pocket as well as his driving licenece, aadhar card and Bank's ID-card and had then fled from the spot. It is further submitted that the petitioner has been implicated in the present case on 23.12.2021 on the basis of his own disclosure statement suffered in another FIR no.488 dated 23.12.2021. It is also submitted that

the said complainant has been examined as PW-2 and in his examination-in-chief, he had specifically stated that he did not identify the accused present in the Court on the said day and they had neither snatched the said amount and documents, nor had given any beatings to him and was, thus, declared hostile.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that the petitioner is a habitual offender and there are several other cases against him. The other facts have, however, not been disputed.

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.

The petitioner has been in custody since 23.12.2021 and the investigation is complete and the challan has already been presented and

thus, the trial is likely to take time. The FIR in the present case has been registered on the complaint filed by Ujjwal and the said Ujjawal has been examined as PW-2 and he had specifically stated in his examination-in-chief that he did not identify the accused including the petitioner, who were present in the Court and stated that the said persons had neither snatched any money and documents from him, nor had given any beatings to him. The said witness is the star witness in the present case. The recovery has already been effected from the petitioner. No purpose would be served by keeping the petitioner in further incarceration.

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.

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.

(VIKAS BAHL)
JUDGE

September 15, 2022

Davinder Kumar