

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(217)

CRM-M-23006-2022

Date of decision: - 27.09.2022

Yograj @ Joga

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Vikas Bishnoi Godara, Advocate,
for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

This is the second petition for grant of regular bail to the petitioner in FIR No.143 dated 29.04.2019 registered under Sections 147, 148, 149, 302, 323, 427 and 452 of the Indian Penal Code, 1860 at Police Station Bhuna, District Fatehabad, Haryana.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 01.04.2021 and as per the FIR, no specific injury has been attributed to the present petitioner either with respect to the deceased, or the complainant. It is further stated that the person who has been alleged to have given the fatal blow with *gandasi* on the head of the deceased is Gaurav @ Gora. It is further argued that co-accused of the petitioner, namely, Birpal has already been granted the concession of regular bail by this Court, vide order dated 25.02.2022

passed in CRM-M-51295-2021. It is further submitted that in the present case, 22 persons have been arrayed as accused persons. It is also submitted that there are 31 witnesses, out of which, none have been examined, thus, the conclusion of the trial is likely to take time.

Learned State counsel, on the other hand, has opposed the present petition for the grant of regular bail and has submitted that the petitioner was named in the FIR and it has been stated that the petitioner and some other accused persons were having *lathies/dandas* in their hands. It is further submitted that co-accused, namely, Gaurav @ Gora had given a fatal blow on account of which, Haji Ram had died and that all the accused persons had also caused injuries to four persons in the said incident. It is also submitted that the petitioner is also involved in one more FIR registered under Section 174-A IPC.

Learned counsel for the petitioner, in rebuttal to the said argument, has submitted that in the said case, the petitioner has been convicted for a period of five days and a fine of Rs.1,000/- has also been imposed on him and he has already undergone the said sentence 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 and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in another case. 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 the learned counsel for the parties and has perused the paper book.

It is not in dispute that as per the prosecution case, no specific injury has been attributed to the petitioner, either with respect to the complainant, or to the deceased. The injury, on account of which the death of the deceased has been caused, has been attributed to co-accused Gaurav @ Gora with a *gandasi*. The petitioner has been in custody since 01.04.2021 and there are 31 witnesses, out of which none have been examined, thus, the conclusion of trial is likely to take time. The co-accused of the petitioner, namely, Birpal has already been granted the concession of regular bail by this Court, vide order dated 25.02.2022 passed in CRM-M-51295-2021 and there are 22 persons who have been arrayed as accused in the present case

Keeping in view the abovesaid facts and circumstances and also in view of law laid down in **Maulana Mohd. Amir Rashadi's case (supra)**, the present petition for regular bail is allowed and the petitioner is ordered to be released on bail on his furnishing bail bonds/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 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 an 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 application.

September 27, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	No