

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

205

CRM-M-23845-2022 (O&M)

Decided on :02.06.2022

Farukh Khan

. . . Petitioner

Versus

State of Haryana

. . . Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Man Mohan, Advocate
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

VIKAS BAHL, J. (Oral)

The present petition has been filed under Section 439 of Cr.P.C. for grant of regular bail to the petitioner in case FIR No. 159 dated 24.08.2020 under Section 136 of the Electricity Act, 2006 registered at Police Station Babain, District Kurukshetra.

Learned counsel for the petitioner has submitted that in the present case, the petitioner is not named in the FIR and he has been stated to be implicated on the basis of the disclosure statement suffered by him in police custody in FIR No. 139/2020. In the present case, the recovery has already been effected and no further recovery is to be effected from the petitioner. It has been stated that the petitioner has been in custody since 04.02.2021, challan has already been presented in the present case and there are 13 prosecution witnesses and none of them have been examined, thus, the trial is likely to take time.

Learned State counsel, on the other hand, has opposed the

present petition for regular bail and has submitted that the petitioner is involved in 34 other cases of similar nature and 12 kg. copper wire has been effected from him.

Learned counsel for the petitioner, in rebuttal, has submitted that out of 34 cases, he has been released on bail in 31 cases and in support of his contention 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 04.02.2021, challan has already been presented in the present case and there are 13 prosecution witnesses and none of them have been examined, thus, the trial is likely to take time. The petitioner has not been named in the FIR

and has been implicated on the basis of the disclosure statement made by him in another FIR i.e. FIR No. 139/2020. The recovery has already been effected from the present petitioner and no further recovery is to be effected from him.

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

Pending miscellaneous applications, if any, stand disposed of, in view of the abovesaid order.

(VIKAS BAHL)
JUDGE

June 2nd, 2022

Mehak

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No