

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

205

CRM-M-25851-2021
Decided on : 05.07.2022

Mohit @ Pahalwan

. . . Petitioner

Versus

State of Haryana

. . . Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Ajay Singh Berwal, Advocate for
Mr. Rakesh Kumar Lathwal, Advocate
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

VIKAS BAHL, J. (Oral)

The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No. 100 dated 31.03.2018 under Sections 379-B and 34 of the Indian Penal Code, 1860 (Sections 392, 397 and 411 IPC added later on) and Section 25 of the Arms Act, 1959 registered at Police Station Murthal, District Sonipat.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 04.06.2018 and there are as many as 25 prosecution witnesses, out of which 12 witnesses are yet to be examined, thus, the trial is likely to take time. It is further submitted that the petitioner has not been named in the FIR and has been implicated in the present case on the basis of the disclosure statement of Gautam @

Choota and the said Gautam @ Choota has already been granted the concession of regular bail vide order dated 13.03.2019 passed by the Additional Sessions Judge, Sonapat (Annexure P-1). It is contended that even the second co-accused Sachin @ Shooter has already been granted the concession of regular bail vide order order 16.10.2019 passed by Additional District & Sessions Judge, Sonipat (Annexure P-2) and a perusal of the said order would show that it has been observed that the complainant Jai Pal has been examined and he did not identify the accused. It is further contended that the recovery of the car and the other recoveries have already been effected from the petitioner and no purpose will be served by keeping the present petitioner in further incarceration and has thus, prayed for the concession of regular bail.

Learned State counsel, on the other hand, has opposed the present application for regular bail and has submitted that the petitioner is involved in 6 other cases and is, thus, a habitual offender. It is also submitted that the pistol used and two live cartridges have been recovered from the petitioner. The other facts as mentioned by learned counsel for the petitioner have not been disputed by learned State counsel.

Learned counsel for the petitioner has rebutted the said argument and submitted that as per settled law, it is the facts of the present case which are required to be considered for the purpose of deciding the present bail application. For the said proposition, learned counsel for the petitioner has relied upon judgment dated 16.01.2012

passed by the Hon'ble Supreme Court in ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and others reported 2012 (2) SCC 382*** reference has been made to the relevant portion of paragraph 6 which 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 paperbook.

The petitioner has been in custody since 04.06.2018 and there are as many as 25 prosecution witnesses out of which, only 13 witnesses have been examined. The petitioner has not been named in the FIR and has been implicated in the present case on the basis of the disclosure statement of Gaurav @ Choota. The co-accused Gaurav @ Choota has already been granted the concession of regular bail vide order dated 13.03.2019 passed by the Additional Sessions Judge, Sonapat. Even the other accused namely Sachin @ Shooter has also been granted the concession of regular bail vide order order 16.10.2019 passed by Additional District & Sessions Judge, Sonipat and in the said order, it had been observed that the complainant Jai Pal has been examined and he did not identify the accused. The recoveries have already been effected from the present petitioner.

Keeping in view the abovesaid facts and circumstances and also in view of the law laid down in Maulana's (*supra*) case, 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 application.

It is made clear, in case, the petitioner threatens or influences any witness, it would be open to the State to move an application for cancellation of the present regular bail granted to the petitioner.

(VIKAS BAHL)
JUDGE

July 5th, 2022
Mehak

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