

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(218)

CRM-M-26101-2022

Date of decision: - 18.08.2022

Kartik

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Sunil Saharan, Advocate
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

Mr. Digvijay Dalal, Advocate
for the complainant.

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.484 dated 28.10.2021, under Sections 148, 149, 323, 307, 427 and 120-B IPC and Section 25 of the Arms Act, registered at Police Station Civil Lines, District Hisar.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 29.10.2021 and the investigation is complete and the challan has been presented and there are total 12 prosecution witnesses, out of whom, only one has been examined and thus, the trial is likely to take time. It is further submitted that the petitioner has been attributed one injury to the complainant and the said

complainant is hale and hearty and has entered into a compromise dated 07.12.2021 (Annexure P-1) with the petitioner and other accused and has specifically stated that he does not want any litigation and he is fully satisfied with the compromise. It is further submitted that since the matter has been compromised, thus, no purpose would be served by keeping the petitioner in further incarceration.

Learned counsel for the complainant has reiterated the fact that the matter has been compromised vide compromise dated 07.12.2021 (P-1) and the said compromise is genuine and bona fide and the complainant has no objection in case the present petition is allowed and the petitioner is granted regular bail.

Learned State counsel, on the other hand, has opposed the present regular bail and has submitted that the petitioner had given a sword blow on the right side of forehead of the complainant on account of which, Section 307 IPC has been added. It is further submitted that the petitioner is involved in several other cases.

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 29.10.2021 and the investigation is complete and the challan has been presented and there are total 12 prosecution witnesses, out of whom, only one has been examined and thus, the trial is likely to take time. Learned counsel for the petitioner as well learned counsel appearing on behalf of the complainant have jointly stated that the matter has been compromised and have also referred to the affidavit dated 07.12.2021 (Annexure P-1), as per which, the complainant has specifically stated that he is satisfied with the compromise and does not want any litigation in the said case and has no objection in case the petitioner is released on bail.

Keeping in view the above-said facts and circumstances as well as in view of the law laid down in **Maulana Mohd. Amir Rashadi'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.

August 18, 2022
naresh.k

(VIKAS BAHL)
JUDGE

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