

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-26367-2022
Date of decision : 27.06.2022

Monu alias Mongli

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Jasdev Singh Thind, Advocate
for the petitioner.

Mr.Tanuj Sharma, AAG, Haryana.

VIKAS BAHL, J.(ORAL)

This is a first application for grant of regular bail to the petitioner under Section 439 Cr.P.C. in FIR no.738 dated 28.10.2021 registered under Section 136 of the Electricity Act at Police Station Samalkha, District Panipat.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 22.03.2022 and the investigation is complete and the challan has already been presented and there are 12 prosecution witnesses and none of them have been examined and 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 on the basis of disclosure statement of co-accused. It is further submitted that as per the version given in paragraph 2 of the impugned order vide which the regular bail of the petitioner has been rejected, the share of money which had come to the

petitioner amounts to Rs.7000/- out of which, the petitioner has already got recovery of Rs.2700/- effected and is also ready to deposit Rs.5000/- in the account of the UHBVN, Bihauli, without admitting his liability and without prejudice to his rights.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that the petitioner is involved in several other cases, thus, does not deserve the concession of regular bail.

Learned counsel for the petitioner, in rebuttal, has submitted that the petitioner has already been granted bail in said cases. He 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 was arrested on 22.03.2022 and investigation in the present case is complete and there are 12 prosecution witnesses and

none of them have been examined and thus, the trial is likely to take time. As per the allegations in the FIR, the cable and wires worth Rs.1,25,000/- are alleged to have been stolen and as per the facts which have been detailed in paragraph 2 of the impugned order, the share of the petitioner comes to Rs.7000/- out of which Rs.2700/- has already been recovered. The petitioner is ready to deposit Rs.5000/- in the account of UHBVN, Bihauli, within a period of two weeks from today.

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 and subject to the petitioner depositing an amount of Rs.5000/- in the account of UHBVN, Bihauli, within a period of two weeks from today. The said deposit made by the petitioner would not be construed as an admission of guilt of the petitioner and the same is being paid without prejudice to his rights.

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

June 27, 2022

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No