

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-30023-2022
Date of decision : 20.07.2022

Sanjit alias Sunny

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr. Ravi Rana, Advocate
for the petitioner.

Mr.Munish Sharma, AAG, Haryana.

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.164 dated 19.08.2021 registered under Section 379-A IPC at Police Station Shahzadpur, District Ambala.

Learned counsel for the petitioner has submitted that the petitioner has not been named in the FIR and no recovery has been effected from the petitioner and the alleged recovery of the snatched mobile phone has been effected from co-accused Sumit and it is on the basis of disclosure statement of said Sumit that the present petitioner has been implicated and even after he was apprehended, no recovery has been effected from the present petitioner. It is further submitted that the petitioner has been in custody since 07.03.2022 and there are 14 prosecution witnesses and since the charges have not been framed, thus, the trial is likely to take time.

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

present petition and has submitted that the petitioner is involved in two other cases and is, thus, a habitual offender. The other facts have, however, not been disputed.

Learned counsel for the petitioner, in rebuttal, has submitted that the petitioner is on bail in said two cases 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 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 not been named in the FIR and no recovery has been effected from the present petitioner and the snatched phone has been recovered from co-accused Sumit and it is on the basis of disclosure statement of co-accused Sumit, the petitioner has been implicated in the present case and even after he was apprehended, no recovery has been effected from the present petitioner. The petitioner has been in custody since 07.03.2022 and there are 14 prosecution witnesses and since the charges have not been framed, thus, the trial is likely to take time.

view of 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.

(VIKAS BAHL)
JUDGE

July 20, 2022
Davinder Kumar

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