

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Sr. No. 279

CRM-M No.27307 of 2022(O&M)
Date of Decision: 05.07.2022

R.K. Nahar

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. A.S. Gill, Advocate,
for the petitioner.

Mr. Sukhbeer Singh, AAG, Punjab.

VIKAS BAHL, J. (ORAL)

The instant petition under Section 439 Cr.P.C. is for grant of regular bail in FIR No.73 dated 28.04.2022, registered under Sections 307, 364, 341, 148 and 149 IPC at Police Station Bhargo Camp, District Police Commissionrate, Jalandhar.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case and on 27.04.2022, the petitioner was not even present at the place of occurrence much less in Jalandhar, within which district the incident had taken place and had, in fact, checked in at JPS Grand Hotel, B-2, 310, Tara Nagar, Old Palam Road, Kakroula Dwarka, Sector 15, Delhi, at 4.25 PM and checked out from the hotel on 28.04.2022, at 11.00 AM and in order to substantiate the same, has referred to a tax invoice dated 28.04.2022 (Annexure P-7). It is further submitted that the said factum is also prima facie apparent from the

signatures of the petitioner on the register dated 27.04.2022 maintained by the JPS Grand Hotel, Delhi and the same has been annexed as Annexure P-8 at page 34 of the paper book. Learned counsel for the petitioner has argued that the call details of the petitioner as well as the CCTV Footage of the said hotel for the date 27.04.2022 and 28.04.2022 would also show that on the date and time of the alleged incident i.e. 27.04.2022 at 10.15 PM, the petitioner was present in Delhi and not in Jalandhar. It is submitted that the petitioner has also filed a petition under Section 482 Cr.P.C, in which the Coordinate Bench of this Court vide order dated 30.05.2022 had put a query to the State Counsel with respect to the arguments raised by the present petitioner regarding his false implication. It is submitted that as per the FIR, no specific injury has been inflicted by the present petitioner and even the car, which was allegedly used by the accused persons does not belong to the present petitioner. It is further submitted that the petitioner has been in custody since 06.05.2022 and since the challan has not been presented yet, thus, the trial is likely to take time and thus, has prayed for the concession of regular bail.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that in the present case, the petitioner along with other accused had inflicted 10 injuries upon the injured Vishal (complainant's brother). It is submitted that the petitioner is involved in four other cases and the defence sought to be raised by the petitioner can only be considered during the course of trial and has, thus, prayed that the present petition be dismissed.

Learned counsel for the petitioner, in rebuttal, has submitted that the petitioner has been granted anticipatory bail in one case and interim

anticipatory bail in the other case and regular bail in the remaining cases and has relied upon a judgment of the 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.

It is the case of the petitioner that the petitioner has been falsely implicated in the present case inasmuch as on 27.04.2022 at 10.15 PM, when the alleged incident had taken place, he was not present in Jalandhar, whereas he had checked into JPS Grand Hotel, Sector 15, Kakroula Dwarka, Delhi at 04.25 PM and for the same purpose, has produced on record the documents which include the tax invoice of the said hotel (P-7), Register maintained by the said hotel (P-8), call details (P-9) and CCTV Footage (P-10) from the said hotel. The fact whether the petitioner was at the alleged place of occurrence or was present in Delhi, would be finally adjudicated

during the course of trial and this Court does not wish to express any final opinion so as to prejudice the case of either of the parties. The petitioner has been in custody since 06.05.2022 and an arguable defence has been raised and since the challan has not been presented yet, thus, the conclusion of the trial is likely to take time.

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

All the pending applications also stand disposed of, in view of the aforesaid order.

05.07.2022*monika***(VIKAS BAHL)
JUDGE**

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