

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(215)

CRM-M-30908-2021

Date of decision: - 27.10.2022

Gurpreet Singh alias Gopi

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Sushant Kohli, Advocate, for the petitioner.

Mr. Ramdeep Partap Singh, Sr. DAG, Punjab.

VIKAS BAHL, J. (ORAL)

This is the first petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.212 dated 19.08.2018, registered under Sections 379-B, 364-A, 382, 392, 473 and 120-B IPC and Sections 25-54-59 of the Arms Act, at Police Station City Kharar, District SAS Nagar (Mohali).

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 28.08.2018 (about 4 years and 2 months) and the investigation is complete and the challan has been presented and there are total 17 prosecution witnesses, out of whom, only four have been examined, thus, the trial is likely to take time. It is further submitted that the recovery of the car has already been effected and no purpose would be served by keeping the petitioner in further incarceration. It is also submitted that with respect to the alleged theft of

the car of make Vitara Brezza colour white, bearing registration No.PB-05-AK-3946, two FIRs have been registered i.e., one which has been registered in SAS Nagar (Mohali) and the other i.e., FIR No.180 dated 26.08.2018 registered at Police Station Division No.7, Police Commissioner Jalandhar.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that the present petitioner is involved in several other cases and is a habitual offender, thus, does not deserve the concession of bail. The period of custody, however, has not been disputed by learned State counsel.

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 record.

The petitioner has been in custody since 28.08.2018 (about 4 years and 2 months) and the investigation is complete and the challan has been presented and there are total 17 prosecution witnesses, out of whom, only four have been examined, thus, the trial is likely to take time. The recovery of the car in question has already been effected. Further, keeping the petitioner in further incarceration would be violative of his right enshrined under Article 21 of the Constitution of India for speedy trial.

Keeping in view the above-said facts and circumstances as well as 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.

October 27, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No