

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-29646-2022

Date of decision : 01.09.2022

Monu @ Leela

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Prateek Rathee, Advocate
for the petitioner.

Mr. Dhruv Sihag, AAG, Haryana.

VIKAS BAHL, J.(ORAL)

This is a second petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.0225 dated 06.07.2021 registered under Sections 323, 325, 365, 506, 392, 397, 34 IPC at Police Station Sector 9-A, Gurugram.

Learned counsel for the petitioner has submitted that the petitioner had first filed an application for regular bail bearing no.CRM-M-833-2022 and since at that stage the complainant had not been examined, thus, the petitioner had withdrawn the same with liberty to file a fresh bail petition after the complainant / injured had been examined. It is further submitted that the complainant / injured has now been examined on 24.02.2022 and thus, the petitioner has filed the present second application for regular bail. It is stated that the petitioner has been in custody since 14.07.2021 and the challan in the present case has already been presented

examined and thus, the trial is likely to take time. It is further stated that the petitioner has not been attributed any specific injury nor he had any motive to beat up the complainant.

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 recovery of stick (danda) and amount of Rs.14,000/- have been effected from the present petitioner. It is further submitted that the petitioner along with other persons had caused injuries to the complainant which included grievous injury attracting offence under Section 325 IPC.

Learned counsel for the petitioner, in rebuttal, has submitted that the petitioner is on bail in the 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 been in custody since 14.07.2021 and the challan in the present case has already been presented and there are 16

trial is likely to take time. The earlier bail application filed by of the petitioner was withdrawn on 17.01.2022 on account of the fact that the complainant had not been examined and liberty was granted to the petitioner to file a fresh petition after the examination of the complainant. The complainant has now been examined on 24.02.2022 (Annexure P-3) thus, the said factor entitles the petitioner to file the present second application for grant of regular bail. Moreover, a period of more than 7 months has elapsed from the time the first bail application was withdrawn.

Keeping in view the above said facts and circumstances, moreso, the arguments raised by the learned counsel for the petitioner and the period of the custody of the petitioner, 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.

(VIKAS BAHL)
JUDGE

September 01, 2022
Davinder Kumar

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