

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-30119-2022(O&M)
Date of decision : 15.12.2022

Ankit Rana

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Sandeep Singh Jattan, Advocate
for the petitioner.

Mr.Surinder Kumar Dagar, DAG, Haryana.

Ms.Kiran Bala Jain, Advocate
for the complainant.

VIKAS BAHL, J.(ORAL)

This is the second petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.266 dated 17.12.2021 registered under Sections 120-B, 148, 341, 307, 395, 397, 427 IPC read with Section 149 IPC and Section 25 of the Arms Act, 1959 at Police Station Ambala Sadar, District Ambala.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 15.01.2022 and the investigation is complete and the challan has already been presented and there are 25 witnesses, out of which, none have been examined and thus, the trial is likely to take time and the subject matter of dispute involved in the present case was a plot measuring 540 square yards and the matter has been compromised between the petitioner and the complainant. It is further

submitted that no specific allegations have been levelled against the present petitioner with respect to the injuries caused to any person, although it has been stated that he along with 3/ 4 persons had caused injuries and taken the car of the complainant party. It is stated that the petitioner had earlier filed a petition for regular bail which was dismissed as withdrawn on 18.04.2022 and liberty was granted to file a fresh petition after the complainant is examined but in spite of lapse of more than 8 months, the complainant has not been examined on account of the fact that the other accused persons are not regularly appearing. It is further stated that on account of said subsequent circumstances, the petitioner is entitled to file the present second petition.

Learned counsel for the complainant has submitted that the matter has been compromised and they have no objection in case the present petition is allowed and the petitioner is granted the concession of regular bail.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that the name of the petitioner has been specifically mentioned in the FIR and he, along with other co-accused allegedly caused 8 injuries to the complainant, out of which one injury has attracted Section 307 IPC. It is further submitted that one country made pistol and live cartridges have been recovered from the present petitioner. It is stated that the petitioner is involved in several other cases.

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 paper book.

Keeping in view the above said facts and circumstances moreso, the fact that the petitioner has been in custody since 15.01.2022 and the investigation is complete and the challan has already been presented and there are 25 witnesses, out of which, none have been examined as yet and thus, the trial is likely to take time and also the fact that the dispute involved in the present case was on account of a plot measuring 540 square yards which, as per learned counsel for the petitioner and learned counsel for the complainant, has been resolved and compromise has been effected between the parties 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.

However, it is made clear that in case the petitioner indulges in

complainant 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.

Pending miscellaneous applications stand disposed of in view of the abovesaid order.

(VIKAS BAHL)
JUDGE

December 15, 2022
Davinder Kumar

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