

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-30117-2022
Date of decision : 06.08.2022

Tarsem Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Kuldeep V. Singh Ahluwalia, Advocate
for the petitioner.

Mr. Sarabjit Singh Cheema, AAG, Punjab.

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.25 dated 02.02.2022 registered under Sections 457, 380 IPC at Police Station Sadar Mansa, District Mansa.

Learned counsel for the petitioner has submitted that in the present case, the FIR had been registered against unknown persons and the petitioner was arrested in FIR no.112 dated 18.05.2022 under Sections 379, 411 and 120-B IPC Police Station Sadar Mansa and as per the prosecution case, the petitioner had suffered a disclosure statement in the said case stating that he was also involved in the alleged theft in the present case. It is further submitted that no recovery has been effected from the petitioner and the petitioner has been in custody since 22.05.2022 and the challan has been presented and there are 11 witnesses, none of whom have been examined and, thus, the trial is likely to take time. It is also submitted that no recovery

was even effected from the petitioner in FIR no.112 dated 18.05.2022.

Learned State counsel, on the other hand, has submitted that the petitioner is involved in several cases and he is a habitual offender and thus, has opposed the present petition for regular bail.

Learned counsel for the petitioner, in rebuttal, has submitted that the petitioner has either been acquitted or granted bail or already undergone the awarded sentence in the said 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 FIR had been registered against unknown persons for the alleged theft of government machinery of water supply and sanitary scheme Ghela. The petitioner was arrested in FIR no.112 dated 18.05.2022 under Sections 379, 411 and 120-B IPC Police Station Sadar Mansa and it is the case of the prosecution that it is on the basis of disclosure statement suffered by the petitioner in the said case to the effect that the petitioner is

the present case, along with the other accused vide DDR no.15 dated 22.05.2022 and was thereafter arrested in the present case. No recovery has been effected from the present petitioner. The report under Section 173 Cr.P.C. has been presented and the investigation is complete and there are 11 witnesses and none of them have been examined and thus, the trial is likely to take time.

Keeping in view the above said facts and circumstances and in 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

August 06, 2022
Davinder Kumar

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