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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-30872-2022

Date of decision : 30.08.2022

Manoj Thakur @ Kaka Ludhiana @ Kaka Pehlwan ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Vikram Satpal Anand, Advocate for the petitioner.

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

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of regular bail to the petitioner in FIR No.38 dated 02.05.2017 registered under Section 392 of the Indian Penal Code, 1860 and Section 25 of the Arms Act, 1959 (Sections 395, 397, 307, 473, 201 of IPC have been added later on) at Police Station Banur, District Patiala.

Learned counsel for the petitioner has submitted that the petitioner is in custody since 10.06.2020 and there are 34 prosecution witnesses, out of which, 9 witnesses have been examined and thus, the conclusion of the trial is likely to take time. It is further submitted that the petitioner was not named in the FIR and the four eye-witnesses have been examined as PW1 to PW4, and have turned hostile and have not supported the case of the prosecution. It is contended that the complainant-Harpreet Singh has gone to Canada and has not come forward to make his statement. It is further contended that the co-accused of the petitioner namely Tirath Singh @ Tirath Dhilwa as well as Sukhwant Narula @ Monu have been granted the

concession of regular bail by the Coordinate Bench of this Court vide orders dated 06.07.2022 (Annexures P-7 and P-8) passed in two separate petitions.

On the other hand, learned State Counsel has submitted that the petitioner is involved in other cases also and is a habitual offender and thus, does not deserve the concession of regular bail.

Learned counsel for the petitioner, in rebuttal to the abovesaid argument, 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 and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in another case. 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 the learned counsel for the parties and has perused the paper book.

In the present case, the petitioner is in custody since 10.06.2020 and there are 34 prosecution witnesses, out of which, 9 witnesses have been examined and thus, the conclusion of the trial is likely to take time. The petitioner was not named in the FIR. The four eye-witnesses namely PW1-Maninder Singh, PW2-Jatinder Singh, PW3-Sukhwant Singh and PW4-Shamsher Singh, in whose presence, as per the case of the prosecution,

robbery had taken place, had been examined and they have not supported the case of the prosecution and the said witnesses have not identified the petitioner as one of the persons who had committed the said alleged offence. The complainant-Harpreet Singh is stated to be in Canada and has not come forward to give his statement. The co-accused of the petitioner namely Tirath Singh @ Tirath Dhilwa as well as Sukhwant Narula @ Monu have already been granted the concession of regular bail by the Coordinate Bench of this Court vide orders dated 06.07.2022 (Annexures P-7 and P-8) passed in two separate petitions.

Keeping in view the abovesaid facts and circumstances, the present petition for regular bail is allowed and the petitioner is ordered to be released on bail on his furnishing bail bonds/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 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 an 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 application.

30.08.2022*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:- Yes/No****Whether reportable:- Yes/No**