

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(223)

CRM-M-31195-2022 (O&M)

Date of decision: - 21.11.2022

Surender

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. V.B. Godara, Advocate, for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

This is a second petition under Section 439 Cr.P.C. to grant regular bail to the petitioner in FIR No.422 dated 10.06.2021, registered under Sections 398, 401 IPC and Section 25 of the Arms Act, at Police Station Sadar Hisar, District Hisar.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 10.06.2021 and there are total 13 prosecution witnesses, none of whom have been examined, thus, the trial is likely to take time. It is further submitted that in the present case, no robbery had actually taken place and the petitioner, along with three other co-accused, as per the prosecution case, had been apprehended by the police while they had surrounded a government vehicle in which the police officials were sitting. It is also submitted that co-accused of the petitioner, namely, Iqbal, has been granted the concession of regular bail by a Co-ordinate Bench of this Court, vide order dated 15.12.2021 and

the other co-accused, namely, Prem Pal and Banti, have also already been granted the concession of regular bail by the Additional Sessions Judge, Hisar, vide orders dated 21.12.2021 and 06.01.2022, respectively. It is stated that an earlier bail application of the petitioner was withdrawn on 19.05.2022 and even thereafter, no witness has been examined, thus, the trial has made no much progress. It is further stated that all the prosecution witnesses are official witnesses, thus, the question of influencing them does not arise.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that the petitioner is involved in several other cases and the two pistols and two live cartridges had been recovered from the petitioner and in total, 10 pistols and 10 live cartridges had been recovered from all the accused. The other facts, however, have 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 gone through the paper-book.

Keeping in view the above said facts and circumstances, more so the fact, that the petitioner is in custody since 10.06.2021 and there are 13 prosecution witnesses, none of whom have been examined, thus, the trial is likely to take time and also the fact that co-accused of the petitioner-Iqbal as well as other co-accused, Prem Pal and Banti have already been granted the concession of regular bail and the case of the present petitioner is on a similar footing as that of the said co-accused and also the fact that all the prosecution witnesses are police officials, thus, the question of influencing them does not arise and also in view of law laid down by the Hon'ble Supreme Court 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.

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.

November 21, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No