

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(203-1)

CRM-M-33284-2022

Date of decision: - 24.08.2022

Ashish

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Deepak Aggarwal, Advocate,
for the petitioner.

Mr. Dhruv Sihag, AAG, Haryana.

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.193 dated 25.03.2019, under Sections 406, 409, 420, 467, 468, 471, 109 and 120-B of the Indian Penal Code, 1860, registered at Police Station Quilla Panipat, District Panipat.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 15.04.2022 and there are total 21 prosecution witnesses, out of whom, none have been examined and thus, the trial is likely to take time. It is further submitted that the petitioner is not named in the FIR and there is no allegation that the petitioner had duped the complainant and as per the FIR, the amount in question is stated to have been transferred into the account of co-accused Sanjay

Kumar. It is further submitted that a compromise has been effected by the complainant with the said Sanjay Kumar and on the basis of the said compromise, the anticipatory bail has been granted to said Sanjay Kumar. It is also submitted that as per the prosecution case, accused Sanjay Kumar had committed the said offence in collusion with Satish Kumar and even the said co-accused Satish Kumar has been granted the concession of regular bail by a Co-ordinate Bench of this Court, vide order dated 21.05.2020 passed in CRM-M-2578-2020. It is stated that the case is triable by Magistrate and thus, a prayer has been made for grant of regular bail.

Learned State counsel on the other hand has opposed the present petition for regular bail and has submitted that the petitioner is involved in one more case and co-accused Sanjay Kumar had given the money to co-accused Satish Kumar and the said Satish Kumar has transferred an amount of Rs.3,96,000/- into the Bank account of the present petitioner.

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.

The petitioner has been in custody since 15.04.2022 and there are total 21 prosecution witnesses, out of whom, none have been examined and thus, the trial is likely to take time. The case is triable by Magistrate. The petitioner is not named in the FIR and as per the FIR, the amount in question had been transferred into the account of co-accused Sanjay Kumar. The complainant compromised the matter with the co-accused Sanjay Kumar and the said Sanjay Kumar has been granted the concession of anticipatory bail on the basis of the said compromise. Even co-accused of the petitioner, namely, Satish Kumar, who is the primary accused, along with said Sanjay Kumar, has been granted the concession of regular bail by a Co-ordinate Bench of this Court, vide order dated 21.05.2020 passed in CRM-M-2578-2020.

Keeping in view the above said facts and circumstances, 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.

August 24, 2022
naresh.k

(VIKAS BAHL)
JUDGE

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