

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(230)

CRM-M-36020-2022

Date of decision: - 23.08.2022

Varinder Singh

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Vaibhav Narang, Advocate,
for the petitioner.

Mr. M.S. Bajwa, DAG, Punjab.

VIKAS BAHL, J. (ORAL)

This is a second petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.58 dated 16.03.2021, under Sections 324 and 34 IPC (Section 307 IPC has been added later on), registered at Police Station A Division, District Police Commissionerate Amritsar.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 17.05.2021 (1 year, 3 months and 5 days) and the challan has been presented and there are total 16 prosecution witnesses, out of whom, none have been examined and thus, the trial is likely to take time. It is further submitted that the FIR in the

present case was registered after a delay of two days, inasmuch as, the alleged incident occurred on 14.03.2021 whereas the FIR has been registered on 16.03.2021. It is further submitted that a perusal of the FIR would show that as per own case of the complainant, son of the complainant, namely, Rakesh Kumar, who is the injured, was a drug addict. It is also submitted that one injury has been attributed to the present petitioner and although, the said injury as per the prosecution case has attracted the offence under Section 307 IPC, but keeping in view the custody of the petitioner and also the fact that trial has not made much progress, the petitioner has prayed for the concession of regular bail. It is submitted that the son of the complainant has been discharged from the hospital and is keeping good health.

Learned State counsel on the other hand has opposed the present petition for regular bail and has submitted that the petitioner is involved in two other cases, but however, has not disputed the other factual aspects.

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 17.05.2021 (1 year, 3 months and 5 days) and the challan has been presented and there are total 16 prosecution witnesses, out of whom, none have been examined and thus, the trial is likely to take time. The FIR in the present case has been registered after a delay of two days, inasmuch as, the incident occurred on 14.03.2021, whereas, the FIR has been registered on 16.03.2021. A perusal of the FIR would show that the injured Rakesh Kumar was stated to be a drug addict.

Keeping in view the above said facts and circumstances and also considering the fact with respect to custody of the present petitioner, 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 23, 2022
naresh.k

(VIKAS BAHL)
JUDGE

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