

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-39860-2021

Date of Decision:-09.05.2022

Abhay Raheja @ Anshu @ Ansh.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Nirmaljeet Singh Sidhu, Advocate for the Petitioner.

Mr. Kirat Singh Sidhu, Deputy Advocate General, Punjab.

JASJIT SINGH BEDI, J. (ORAL)

The Prayer in this petition is for the grant of regular bail under Section 439 Cr.PC in case FIR No.158 dated 24.07.2021 under Sections 379-B, 379, 411 IPC registered at Police Station Canal Colony, District Bathinda, Punjab.

The brief facts of the case are that the investigating agency received an information that the Petitioner who was in the habit of snatching motor cycles, mobile phones and purses could be apprehended while roaming in the area of Paras Ram Nagar, Bathinda on Activa which is without registration number and recovery of snatched mobile phones, motor cycles and purses could be effected. Based on the said information the accused was arrested on 27.07.2021 and on the same day the recovery of two mobile phones, one Activa scooter and on a subsequent disclosure

statement 08 motor cycles of different makes was effected from his house.

The Counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and the recovery has been foisted upon him. He is in custody since 27.07.2021 and investigation stands completed. The charges have not been framed and a number of prosecution witnesses are yet to be examined and therefore the trial is not likely to be concluded in near future. Thus he prays for grant of bail.

The Counsel for the State on the other hand submits that the petitioner was arrested on suspicion and a number of articles as enumerated above have been recovered from him. He further contends that petitioner is involved in two other other cases of similar nature and thus the petitioner does not deserve the concession of regular bail.

I have heard learned Counsel for the parties at length.

Admittedly, the petitioner has been arrested on the basis of suspicion and the recovery has been allegedly effected from him. It would be a matter of adjudication before the trial Court whether or not the petitioner has been falsely implicated in the present case.

Regarding the criminal antecedents of an accused, The Hon'ble Supreme Court in **Maulana Mohd. Amir Rashidi Vs. State of U.P. & Anr. 2012(1) R.C.R.(Criminal) 586** held as under:-

“ 6. It is not in dispute and highlighted that the second respondent is a sitting Member of Parliament facing several criminal cases. It is also not in dispute that most of the cases ended in acquittal for want of proper witnesses or pending trial. 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.

8. *Taking note of all these aspects, particularly, the fact that the second respondent was in jail since 24.08.2009, the trial has commenced by examining the two witnesses on the side of the prosecution and the assurance by the State that trial will not be prolonged and conclude within a reasonable time and also of the fact that the High Court while granting bail has imposed several conditions for strict adherence during the period of bail, we are not inclined to interfere with the order of the High Court. In fact, in the impugned order itself, the High Court has made it clear that in case of breach of any of the conditions, the trial Court will have liberty to take steps to send the applicant therein (respondent No. 2 herein) to jail again. In addition to the same, it is further made clear that if the appellant receives any fresh threat from the second respondent or from his supporters, he is free to inform the trial Court and in such event the trial Court is free to take appropriate steps as observed by the High Court. We also direct the Trial Court to complete the trial within a period of four months from the date of the receipt of copy of this order without unnecessary adjournments. ”*

Similarly In **Rajender Singh Vs. State of Haryana CRM-40431-2021 in CRA-D-1640-DB-2014** Decided on **19.01.2022** this Court has held as under:-

“ *We are quite conscious of the fact that the applicant in the present case is a prior convict, and therefore, his case would be an exception to the ratio of the law laid down in **Daler Singh’s case (supra)**. However, on having examined the factual matrix in the case of the applicant, we are inclined to suspend the rest of the sentence of the applicant for the following reasons:-*

(i) *The applicant has undergone approximately 09 years of his substantive sentence of 12 years i.e. 03 years*

more than the prescribed period under **Daler Singh's case (supra)**.

(ii) The applicant was convicted in FIR No. 244 dated 10.05.2006 in which he was sentenced for 02 years, and he has undergone the same. In the second conviction in FIR No. 84 dated 21.07.2006, the applicant was sentenced for 10 years and he has been granted bail vide order dated 03.12.2009. So, as on date, the applicant is in custody only in the present case.

(iii) If pendency of other FIRs is the only consideration for denial of bail, then whenever a convict/under-trial applies for bail, the same would be denied simply looking at the pendency of another case. While, it is true that the grant of bail/suspension of sentence would have to be looked at in the larger context of the criminal antecedents of the accused/convict, it is equally true that the appreciation of evidence in the trial/appeal would have to be with reference to the evidence in that case alone and not with respect to the evidence in the other pending cases against him. Therefore, strict adherence to the rule of denial of bail on account of pendency of other cases/convictions would put the accused in vicious loop of never being granted bail because the bail in each case would be denied due to the pendency of another case/conviction. This would clearly be violative of the right to speedy trial/expeditious disposal of an appeal as recognized under Article 21 of the Constitution of India, as the accused would never be granted bail in any case leading to indefinite periods of incarceration assuming of course that the appeal is not heard within a reasonable period of time.

(iv) The appeal, in the present case, which stands admitted on 14.11.2014, is not likely to be heard in the near future due to the COVID-19 pandemic, which does not show sign of abating. ”

In view of the judgments (supra), it would be seen that the criminal antecedents alone of the petitioner would not disentitle him to the concession of regular bail.

Keeping in view the fact that the petitioner is in custody since 27.07.2021 and no prosecution witness has been examined till date, the further incarceration of the petitioner is not required.

Thus without commenting on the merits of the case, the present petition is allowed and the petitioner **Abhay Raheja @ Anshu @ Ansh** son of Sh. Vinod Kumar is ordered to be released on bail subject to the satisfaction of learned CJM/Duty Magistrate, concerned.

The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the present case.

If the petitioner indulges in similar offence for which he is currently charged, the State would be at liberty to move an application for cancellation of bail.

Petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

May 09, 2022
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>