

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-36771-2022
Date of decision : 06.09.2022

Aman Kumar @ Amna

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Vivek Singla, Advocate
for the petitioner.

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

VIKAS BAHL, J.(ORAL)

1. This is a first petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.0174, dated 17.10.2019 under Sections 307, 336, 427 and 34 of IPC, 1860 (offence under Section 120-B, 148, 149 and 201 of IPC, 1860 added later on and Section 34 of IPC was deleted) and Sections 25 and 27 of the Arms Act, 1959 registered at Police Station Jaito, District Faridkot.

2. Learned counsel for the petitioner has submitted that the petitioner has been in custody since 30.10.2019 and challan has been presented. There are total 10 witnesses, out of which, none have been examined and thus, the trial is likely to take time. It is further submitted that the petitioner has not been named in the FIR. The present case is a case of no injury. It is submitted that as per the FIR, the complainant Sushil Kumar has stated that two unknown persons had come and fired two cartridges in

the air and two directly at his shop with an intention to break the glass of the shop and none of the said two persons were the petitioner, as, on the date of the said incident i.e. 17.10.2019, the petitioner was already in custody in another case. It is submitted that the petitioner has been implicated on the basis of the statement of Jeet Singh, which was recorded on 24.10.2019 and even the said Jeet Singh had stated that while sitting in a Dhaba, he had overheard four persons, which did not include the present petitioner, discussing that the present petitioner had given a ransom call to the complainant and the complainant was not agreeing to the same. It is submitted that there is nothing on record to connect the present petitioner with the alleged occurrence as neither any recovery has been effected from the present petitioner, nor there is any eye witness in the present case.

3. On the other hand, learned State counsel has opposed the present application for the grant of regular bail to the petitioner and has submitted that the petitioner is also involved in several other cases and he has been implicated on the basis of the statement of Jeet Singh, who had named the petitioner based on the conversations he overheard between four persons, while sitting in a Dhabha

4. 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."

5. Learned counsel for the petitioner has also submitted that the co-accused of the petitioner namely, Jaspal Singh @ Pala and Sukhjinder Singh @ Vicky have already been granted the concession of regular bail by a co-ordinate Bench of this Court.

6. This Court has heard the learned counsel for the parties and has perused the paper-book.

7. The petitioner has been in custody since 30.10.2019 and there are total 10 witnesses, out of which, none have been examined and thus, the trial is likely to take time. The present case is a case of no injury and the petitioner has not been named in the FIR, nor, any recovery has been effected from the petitioner. On 17.10.2019, two unknown persons have been alleged to have fired gun shots, which did not injure anybody and neither of the two accused persons could have been the present petitioner, as the petitioner was stated to be in custody in some other case on the said date.

8. The co-accused of the petitioner, i.e. Jaspal Singh @ Pala and Sukhjinder Singh @ Vicky, who were talking in Dhaba when they were overheard by Jeet Singh, have already been granted the concession of regular bail by a co-ordinate Bench of this Court vide order dated 21.12.2020 passed in CRM-M-42159 of 2020 and order dated 17.12.2020 passed in CRM-M-41614 of 2020, respectively.

law laid down by Hon’ble the Supreme Court in the abovesaid judgment, 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.

10. 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.

11. 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.

(VIKAS BAHL)
JUDGE

September 06, 2022
Davinder Kumar

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