

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(224)

CRM-M-37776-2022 (O&M)

Date of decision: - 30.08.2022

Jatin Kumar alias Jaanu

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. S.K. Choudhary, Advocate, for the petitioner.

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

VIKAS BAHL, J. (ORAL)

CRM-30631-2022

This is an application filed for grant of leave under Rule 3/A(1) of Chapter VI, Part B, Volume V of Punjab and Haryana High Court Rules and Orders to file the present petition.

In view of averments made in the application, the same is allowed and leave is granted under the aforesaid Rules and Orders to file the present petition.

CRM-M-37776-2022

This is a second petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.240 dated 28.11.2021, under Sections 379-B and 34 IPC, registered at Police Station Sujampur, District Pathankot.

Learned counsel for the petitioner has submitted that the

petitioner has been in custody since 11.12.2021 and the investigation is complete and there are total 6 prosecution witnesses, out of whom, only one has been examined and thus, the trial is likely to take time. It is further submitted that the petitioner was not named in the FIR. It is submitted that the petitioner along with co-accused have snatched gold topas along with its chains (waggan) from the ears of the complainant. It is also submitted that the earlier bail application of the petitioner was dismissed as withdrawn on 15.02.2022 and thereafter, the complainant has been examined as PW-1 and she has not supported the case of the prosecution. It is stated that the said fact entitles the petitioner to file the present second petition for the 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 two other cases.

Learned counsel for the petitioner, in rebuttal, has submitted that the petitioner is on bail in the said two cases and 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 11.12.2021 and the investigation is complete and there are total 6 prosecution witnesses, out of whom, only one has been examined and thus, the trial is likely to take time. The earlier bail application was dismissed as withdrawn by the petitioner with liberty to file a fresh petition after the complainant had been examined, vide order dated 15.02.2022 and after passing of the said order, the complainant has been examined as PW-1 on 05.07.2022 and a perusal of her statement would show that she has not supported the case of the prosecution and has been declared to be hostile and has stated that the present petitioner was not the person who had snatched the gold topas along with chains (wagga) from the complainant.

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 30, 2022
naresh.k

(VIKAS BAHL)
JUDGE

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