

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(231)

CRM-M-38197-2022 (O&M)

Date of decision: - 01.09.2022

Rajan

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Sanjiv Gupta, Advocate
for Mr. Mandeep Sindhu, Advocate, for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

CRM-31010-2022

Application is allowed, as prayed for.

CRM-M-38197-2022

This is a first petition under Section 439 Cr.P.C. for grant of regular bail in FIR No.160 dated 04.07.2021, under Section 379-A IPC (Sections 201, 412, 120-B and 34 IPC have been added later on), registered at Police Station Civil Lines Rohtak, District Rohtak.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 05.08.2021 and the challan has already been presented and there are 12 prosecution witnesses, none of whom have been examined, thus, the trial is likely to take time. It is stated that the petitioner was not named in the FIR and he was implicated in the present case on the basis of supplementary statement made by the

complainant. It is further submitted that the matter has been settled and regarding the same, both complainant as well as his father Ram Bhagat have given their affidavits, which are annexed along with the present petition as Annexures P-2 and P-3, respectively. It is also submitted that as per the said affidavits, both complainant and his father have stated that they do not want to pursue this case any further and have no objection in case the present petitioner is granted the concession of bail. It is argued that co-accused of the petitioner, namely, Hardik, who is similarly placed as the present petitioner, has already been granted the concession of regular bail by this Court, vide order dated 25.07.2022 passed in CRM-M-21792-2022 and in the said case, even counsel for the complainant had appeared and stated that the matter has been compromised.

Learned State counsel on the other hand has opposed the present petition for regular bail and has submitted that the petitioner is involved in four other cases, which are of similar nature and thus, does not deserve the concession of regular bail.

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 perused the paper book.

The petitioner is in custody since 05.08.2021 and the challan has already been presented and there are 12 prosecution witnesses, none of whom have been examined, thus, the trial is likely to take time. The petitioner was not named in the FIR and on the basis of supplementary statement of the complainant, the petitioner had been arrayed as an accused. The matter is stated to have been settled as per the petitioner and regarding the same, the petitioner has relied upon two affidavits dated 23.05.2022 filed by the complainant and his father Ram Bhagat, respectively, as per which, they have stated that they have no objection in case bail is granted to the present petitioner and that they do not want to pursue the matter. Moreover, co-accused of the petitioner, namely, Hardik has already been granted the concession of regular bail vide order dated 25.07.2022 passed in CRM-M-21792-2022 and in the said case, counsel for the complainant had appeared and stated that the matter has been compromised.

Keeping in view the abovesaid facts and circumstances as well as in view of the law down in **Maulana Mohd. Amir Rashadi's case (supra)**, 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.

September 01, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No