

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-38572-2022 (O&M)
Date of decision : 01.09.2022

Bobby Malhotra @ Sagar

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.J.S.Thakur, Advocate
for the petitioner.

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

VIKAS BAHL, J.(ORAL)

CRM-31274-2022

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-38572-2022

This is a petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.113 dated 12.07.2015 registered under Sections 307, 34 IPC and Sections 25 & 27 of the Arms Act (charges framed under Sections 307, 34, 201 IPC and 27 of the Arms Act, 1959) at Police Station C Division, District Amritsar City.

present case is a case of no injury and the custody of the petitioner in the present case, as per the custody certificate, is 2 years 3 months and 20 days and the investigation is complete and the challan has been presented and out of 11 witnesses, none have been examined and, thus, the trial is likely to take time. It is further submitted that Ajay Kumar, co-accused of the petitioner who is similarly placed as the present petitioner, has been granted regular bail by a coordinate Bench of this Court vide order dated 18.10.2019 passed in CRM-M-28068-2019 (Annexure P-2).

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has although not disputed the aforesaid facts but has submitted that the petitioner is involved in large number of cases and is a habitual offender.

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

The custody of the petitioner in the present case, as per the custody certificate, is 2 years 3 months and 20 days and the investigation is complete and the challan has been presented and out of 11 witnesses, none have been examined and, thus, the trial is likely to take time. The present case is a case of no injury and co-accused Ajay Kumar, who is stated to have fired in the air as has also been alleged against the present petitioner and thus, is similarly placed as the present petitioner, has been granted regular bail by a coordinate Bench of this Court vide order dated 18.10.2019 passed in CRM-M-28068-2019.

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.

(VIKAS BAHL)
JUDGE

September 01, 2022

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No