

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-40246-2022

Date of Decision: 09.09.2022

Pankaj

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Aman Pal, Advocate, for the petitioner.
Mr. Praveen Bhadu, A.A.G., Haryana.

VIKAS BAHL, J. (Oral)

1. This is the second petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No. 31, dated 21.01.2022, under Sections 406/409/420/467/468/471/120-B of the Indian Penal Code, 1860, registered at Police Station City, District Kaithal.
2. Learned counsel for the petitioner has submitted that the present petition is in effect the first petition inasmuch as the first petition was withdrawn on 26.08.2022 with liberty to file a fresh petition after giving correct and complete particulars and the present petition has been filed after complying with the said order.
3. It is submitted that the petitioner is in custody since 10.03.2022, and the investigation is complete and the '*challan*' has been presented and there are 13 witnesses, none of whom have been examined and thus, the trial is likely to take time. It is further submitted that the present case is triable by a Magistrate and the same is based on documentary evidence and thus, no purpose would be served for keeping the petitioner in further incarceration. It is further submitted that as per the

prosecution case, the person who had forged the documents was one Resham Singh.

3. Learned State counsel on the other hand has opposed the present petition for regular bail and has submitted that on the basis of the forged documents, the petitioner has got a loan of Rs. 15,00,000/- and that there are other cases against the petitioner and the petitioner is a habitual offender.

4. Learned counsel for the petitioner in rebuttal has submitted that as per settled law, it is the facts of the present case which are required to be considered for the purpose of deciding the present bail application. For the said proposition, learned counsel for the petitioner has relied upon judgment passed by the Hon'ble Supreme Court titled as **Maulana Mohd. Amir Rashadi Vs. State of U.P. and others** reported as 2012 (2) SCC 382 and reference has been made to the relevant portion of paragraph 6 which 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. This Court has heard learned counsel for the parties and has perused the paper book.

6. The petitioner is in custody since 10.03.2022 and the investigation is complete and the *challan* has been presented and there are 13 witnesses, none of whom have been examined. The case is based on

documentary evidence and thus, no purpose would be served by keeping the petitioner in further incarceration.

7. Keeping in view the above said facts and circumstances and also the law laid down in the aforesaid 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 and also subject to the petitioner giving an undertaking to the trial Court that he would appear before the trial Court on each and every date unless his appearance is personally exempted by the Court.

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 09, 2022	(VIKAS BAHL)
nitin	JUDGE
Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No