

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
(220)

1. CRM-M-41741-2022 (O&M)
Firad AliPetitioner
Versus
State of HaryanaRespondent

2. CRM-M-26595-2022 (O&M)
KrishanPetitioner
Versus
State of HaryanaRespondent

Date of decision: - 18.10.2022

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Vivek Khatri, Advocate for the petitioner.
(In CRM-M-26595-2022).

Mr. Mohd. Uzair, Advocate for the petitioner.
(In CRM-M-41741-2022).

Mr. Dhruv Sihag, AAG, Haryana.

Mr. Rajiv Sharma, Advocate
for the Hindustan Petroleum Limited.

VIKAS BAHL, J. (ORAL)

This order will dispose of two petitions. The first petition has been filed by petitioner Firad Ali i.e., CRM-M-41741-2022 and the second petition has been filed by petitioner Krishan i.e., CRM-M-26595-2022.

Both the said petitions have been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioners in FIR No.380 dated

29.10.2021 registered under Sections 379/427/201 of the Indian Penal Code, 1860; Sections 15(2)(4)/16 of the Petrol and Pipe Line Act, 1962, Sections 3/4 of the Explosive Substances Act, 1908; and Sections 3/4 of the Prevention of Damage to Public Property Act, 1984 at Police Station Sadar, Fatehabad, District Fatehabad

Learned counsel for both the petitioners have jointly submitted that the petitioner Firad Ali has been in custody since 09.11.2021 and petitioner Krishan has been in custody since 07.11.2021 and the investigation qua the present petitioners is complete and the challan has been presented and there are 23 prosecution witnesses, out of whom three have been examined, thus, the trial is likely to take time. It is further submitted that the petitioners were not named in the FIR and there is no evidence linking the petitioners with the alleged offence. It is also submitted that from petitioner Firad Ali recovery of Rs.35,000/- has been effected and that from petitioner Krishan the recovery of Rs.25,000/- has been effected and the said recoveries could also not link the petitioners with the alleged offence, inasmuch as, it is not the case of the prosecution that the said amount has been stolen from the place of the alleged occurrence and the allegations in the present FIR are with respect to theft of oil, which was flowing from the underground pipe by putting a valve in the underground oil pipeline by drilling hole in the pipeline of the company (respondent No.2). It is stated that the present regular petitions are the second petitions filed for grant of bail and the petitioner Firad Ali had withdrawn the first regular bail petition on 02.06.2022 and petitioner

Krishan had withdrawn the first regular bail petition on 26.05.2022 and even thereafter, substantial period has elapsed and the trial has not been concluded.

Learned State counsel as well as learned counsel for the Hindustan Petroleum Limited have opposed the present petitions for regular bail and have submitted that in the present case, as per the allegations in the FIR, when the Supervisor of the Hindustan Petroleum Limited had reached the spot, he saw that oil had been stolen through the pipe by putting a valve in the underground oil pipeline of the company and that on the spot a little oil was leaking and it was found that certain thieves had, by drilling a hole in the underground oil pipeline, stolen oil by putting valve in the pipe and thus, apart from stealing the oil, they had also damaged the government property by drilling a hole in the government underground oil pipeline. It is also submitted by learned counsel for the complainant-Hindustan Petroleum Limited that the said incident could have resulted in disastrous consequences. It is argued that the petitioners have given their disclosure statements admitting their guilt of having been involved in the present case. It is also argued that petitioner Krishan is involved in three other cases and thus, he is a habitual offender.

Learned counsel for the petitioner in CRM-M-26595-2022, 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.”

Learned counsel for the petitioner in CRM-M-41741-2022 has submitted that petitioner Firad Ali is not involved in any other case.

This Court has heard learned counsel for the parties and gone through the paper-book.

Petitioner Firad Ali has been in custody since 09.11.2021 and petitioner Krishan has been in custody since 07.11.2021 and the investigation qua the petitioners is complete and the challan has been presented and there are 23 prosecution witnesses, out of whom only three have been examined, thus, the trial is likely to take time. The petitioners were not named in the FIR. The recoveries of Rs.35,000/- and Rs.25,000/- have already been effected from petitioners Firad Ali and Krishan, respectively. It is the case of the petitioners that there is no tangible evidence to connect the petitioners with the offence and the mere recoveries of money effected from them would not further the case of the prosecution. The aspect, as to whether the petitioners were involved in the offence or not, would be finally considered and adjudicated by the trial

Court after taking into consideration the entire material which shall be produced by the prosecution. The petitioners Firad Ali and Krishan had earlier filed regular bail petitions and the same were withdrawn on 02.06.2022 and 26.05.2022, respectively and even thereafter, substantial time has elapsed and the trial is still at the initial stage, thus, entitling them to file the present second petitions for grant of regular bail.

Keeping in view the above-said facts and circumstances as well as in view of the law laid down in **Maulana Mohd. Amir Rashadi's case (supra)**, the present petitions are allowed and the petitioners are ordered to be released on bail on their furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to them not being required in any other case.

However, 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 cases which are only for the purpose of adjudicating the present bail petitions.

It is made clear that in case, any act is done by the petitioners 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 petitioners.

All the pending miscellaneous application(s), if any, stand disposed of in view of the abovesaid order.

October 18, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No