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

CRM-M-40993-2022

Date of decision : 30.11.2022

Sachin @ Bhollu

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Virender Soni, Advocate for the petitioner.

Mr. Vishal Malik, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of regular bail to the petitioner in FIR No.32 dated 01.02.2020 registered under Sections 392, 397 of Indian Penal Code, 1860 and Section 25 of the Arms Act, 1959 (Sections 307, 379-B and 120-B of IPC have been added later on) at Police Station Meham, District Rohtak.

Learned counsel for the petitioner has submitted that the petitioner is in custody since 16.07.2020 and there are 33 prosecution witnesses, out of which, none have been examined and thus, the conclusion of the trial is likely to take time. It is further submitted that the petitioner has not been named in the FIR and the petitioner has been implicated on the basis of disclosure statement of co-accused Ashish

which has been recorded in another case and the said Ashish has already been granted the concession of regular bail by the Coordinate Bench of this Court vide order dated 24.02.2022 passed in CRM-M-41332-2021. It is contended that no pistol has been recovered from the present petitioner and only recovery of Rs.2000/- has been shown to have been recovered from the present petitioner. It is further contended that the star witness in the present case is complainant-Sandeep Kumar who has been examined as PW1 and in his statement, he had stated that he had seen the accused persons present in the Court as well as through Video Conferencing, which included the present petitioner, and had stated that he could not identify them, as the assailants, who had trespassed into the factory, had covered their faces and were wearing monkey caps and thus, he was unable to recognise the assailants.

On the other hand, learned State Counsel has opposed the present petition for grant of regular bail to the petitioner and has submitted that the petitioner is involved in several other cases also and as per the disclosure statement of Ashish, it is the petitioner who has been attributed the injury which has attracted the offence under Section 307 of IPC in the present case.

Learned counsel for the petitioner, in rebuttal to the said argument, has submitted that the petitioner is on bail in the abovesaid 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 and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in another case. 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.

Keeping in view the abovesaid facts and circumstances as well as law laid down in ***Maulana Mohd. Amir Rashadi's*** case (Supra) more so, the facts that in the present case, the petitioner is in custody since 16.07.2020 and out of 33 prosecution witnesses, none have been examined and thus, the conclusion of the trial is likely to take time and the fact that the petitioner was not named in the FIR and was implicated on the basis of disclosure statement of co-accused Ashish which had been recorded in another FIR and the said Ashish has already been granted the concession of regular bail by the Coordinate Bench of this Court vide order dated 24.02.2022 passed in CRM-M-41332-2021 and the fact that no recovery of pistol has been effected from the petitioner and the fact that the complainant while appearing in the witness box as PW1 had not recognized the accused persons present in the Court, which included the

present petitioner, as the persons, who had trespassed into the factory, had covered their faces with monkey caps, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate, 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 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 an 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 application.

30.11.2022*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:- Yes/No****Whether reportable:- Yes/No**