

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(213)

CRM-M-41940-2022

Date of decision: - 19.09.2022

Mandeep

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Sameer Singh, Advocate
and Mr. Rahul Deswal, Advocate,
for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

This is a first petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.71 dated 10.04.2022, under Sections 379-B, 365, 323, 506 and 34 IPC (Sections 324, 392 and 394 IPC and Sections 3(1)(s)(r) and 3(2)(va) of SC & ST Act, have been added later on), registered at Police Station Sadar Bahadurgargh, District Jhajjar.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 05.05.2022 and the investigation is complete and the challan has been presented and there are total 17 prosecution witnesses, out of whom none have been examined and thus,

the trial is likely to take time. It has been submitted that in the present case, the alleged incident is stated to have taken place on 30.08.2021, whereas, the FIR has been registered on 10.04.2022 i.e., after a delay of 220 days. It is stated that the petitioner has been falsely implicated in the present case and the said fact is apparent from the fact that on 23.12.2021 the mother of the petitioner had got an FIR registered against Jagdeep, the complainant in the present case. It is further submitted that there was a dispute between the petitioner's family and that of the complainant and on 16.11.2021 (Annexure P-6), the settlement was arrived at and in the said settlement there was no reference made to the alleged incident dated 30.08.2021. It is also submitted that it is only when the petitioner did not compromise the matter with the complainant party in the FIR No.460 dated 23.12.2021, which was registered by the mother of the present petitioner, that the present FIR has been registered against the petitioner. It is argued that no grievous injury has been caused to any person in the present case.

Learned State counsel on the other hand has opposed the present petition for regular bail and has submitted that the petitioner is involved in one more case under the Excise Act.

Learned counsel for the petitioner, in rebuttal, has submitted that the petitioner is on bail in the said case 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 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 gone through the paper-book.

The petitioner has been in custody since 05.05.2022 and the investigation is complete and the challan has been presented and there are total 17 prosecution witnesses, out of whom none have been examined and thus, the trial is likely to take time. The FIR in the present case has been registered after a delay of 220 days, inasmuch as, the alleged incident had taken place on 30.08.2021, whereas, the FIR has been registered on 10.04.2022. It is the case of the petitioner that the mother of the petitioner had got registered FIR No.460 dated 23.12.2021 against the complainant and since the said matter was not compromised, thus, the present FIR has been registered against the petitioner. Moreover, a reference has also been made to compromise dated 16.11.2021 (P-6), in which, no specific reference has been made to the incident dated 30.08.2021.

Keeping in view the above said facts and circumstances, as well as the law laid 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 19, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	Yes