

228

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

CRM-M-41815-2022

Date of decision : 16.11.2022

Sultan Singh @ Ravi

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Ravinder Bangar, Advocate for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

Ms. Priya Mishra, Advocate for
Mr. Balraj Singh Dhull, Advocate for the complainant.

VIKAS BAHL, J. (ORAL)

This is the second petition filed under Section 439 of Cr.P.C. for grant of regular bail to the petitioner in FIR No.359 dated 01.04.2022 registered under Sections 392, 506 of Indian Penal Code, 1860 and Sections 25/54/59 of the Arms Act (Sections 201 and 397 of IPC have been added later on) at Police Station Shahabad, District Kurukshetra.

Learned counsel for the petitioner has submitted that the petitioner is in custody since 06.04.2022 and there are 9 prosecution witnesses, out of which, only 1 prosecution witness has been examined

and thus, the conclusion of the trial is likely to take time. It is further submitted that FIR, in the present case, was registered on the statement of Rohit who is stated to be the eye-witness and in whose presence, the alleged incident had taken place. It is contended that the first bail application of the petitioner was dismissed as withdrawn on 20.07.2022 at that stage and subsequent to the said order, said Rohit, who is the complainant in the present case, has been examined as PW1 and in his examination-in-chief, he had specifically stated that he had seen the accused person i.e. the present petitioner in the Court on that day and he could not identify him as the person had come with a muffled face at the time of incident and thus, has been declared as hostile.

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 four other cases and thus, does not deserve the concession of regular bail.

Learned counsel for the petitioner, in rebuttal to the said argument, has submitted that out of the abovesaid four cases, the petitioner has been acquitted in three cases and in the fourth case, he is on anticipatory bail 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.”

Learned counsel for the complainant has submitted that the complainant did not recognize the person who had committed the alleged offence when present in Court on that day.

This Court has heard the learned counsel for the parties and has perused the paper book.

In the present case, the petitioner is in custody since 06.04.2022 and out of 9 prosecution witnesses, only 1 prosecution witness has been examined and thus, the conclusion of the trial is likely to take time. The FIR, in the present case, was registered on the statement of Rohit who had stated that the incident had taken place in his presence. The first bail application of the petitioner was dismissed as withdrawn on 20.07.2022 at that stage and after the said order was passed, said Rohit has been examined as PW1 and in his examination-in-chief, he has specifically stated that he had seen the accused person i.e. the present petitioner, in the Court on that day and he could not identify him as the accused person had come with a muffled face at the time of the incident in question.

Keeping in view the abovesaid facts and circumstances as

well as 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 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.

16.11.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No