

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(221)

CRM-M-42372-2022 (O&M)

Date of decision: - 27.10.2022

Gaurav Sharma

...Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Jagmohan Singh Bhatti, Advocate,
for the petitioner.

Mr. Ramdeep Partap Singh, Sr. DAG, Punjab.

VIKAS BAHL, J. (ORAL)

CRM-34735-2022

This is an application filed for grant of leave under Rule 3/A(1) of Chapter VI, Part B, Volume V of Punjab and Haryana High Court Rules and Orders to file the present petition.

In view of averments made in the application, the same is allowed and leave is granted under the aforesaid Rules and Orders to file the present petition.

CRM-M-42372-2022

This is the first petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.28 dated 19.02.2022, registered under Sections 341, 323, 324, 506 and 149 IPC (Sections 325 and 326

IPC have been added later on), at Police Station Balongi, District SAS Nagar (Mohali).

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 11.07.2022 and the investigation is complete and the challan has been presented and there are total 14 prosecution witnesses, out of whom, none have been examined, thus, the trial is likely to take time. It is further submitted that the petitioner has been falsely implicated in the present case and no purpose would be served by keeping the petitioner in further incarceration.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that as per the FIR, the petitioner has been attributed a *gandasa* blow on the head of the complainant/injured and the said injury has been declared to be grievous in nature. It is further submitted that the petitioner is involved in several other cases and is a habitual offender.

Learned counsel for the petitioner, 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 has further submitted that in order to show his bona fide, the petitioner is ready to pay an amount of Rs.10,000 /- to the complainant/injured Lakha Ram in the present case.

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

The petitioner has been in custody since 11.07.2022 and the investigation is complete and the challan has been presented and there are total 14 prosecution witnesses, out of whom, none have been examined, thus, the trial is likely to take time. The recovery has already been effected from the present petitioner.

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, subject to the petitioner deposit an amount of Rs.10,000/- before the trial Court within a period of one month from today and also subject to him not being required in any other case.

The trial Court is directed to release the said amount of Rs.10,000/- in favour of complainant/injured (Lakha Ram) in the present case. The payment of the abovesaid amount of Rs.10,000/- would not be construed as an admission of guilt by the petitioner.

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.

October 27, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No