

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-42667-2022
Date of decision : 21.09.2022

Kiran Pal Singh

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Dinesh Arora, Advocate
for the petitioner.

Mr.Praveen Bhadu, AAG, Haryana.

Mr.Mukul Goyal, Advocate and Ms.Neha Goyal, Advocate
for the complainant.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.131 dated 15.04.2022 registered under Sections 323, 325, 506, 34 IPC (Sections 307 and 201 IPC added later on) at Police Station Sadar Mahendergarh, District Mahendergarh.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 05.07.2022 and the investigation is complete and the challan has already been presented and there are 19 witnesses and out of which, none have been examined and thus, the trial is likely to take time. It is further submitted that the dispute in the present case is between brothers inasmuch as the complainant is the brother of the petitioner and there is a dispute with respect to a Dharamshala as well as land between the parties regarding which, civil litigation is pending. It is

stated that in the incident, four persons from the side of the present petitioner were also injured and reference has been made to their MLRs which have been annexed as Annexures P-3 to P-6. It is further stated that there is no injury in the present case which has been declared dangerous to life and thus, Section 307 IPC is not prima facie attracted.

Learned State counsel as well as learned counsel for the complainant, on the other hand, have opposed the present petition for regular bail and have submitted that in the present case the petitioner had driven the tractor with a harrow attached in the back of the same so as to endanger the life of the complainant and his family members. It is submitted that six persons from the side of the complainant have suffered injuries. It is further submitted that the petitioner is involved in one more case.

Learned counsel for the petitioner, in rebuttal, has submitted that the petitioner has been granted 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 perused the paper book.

The petitioner has been in custody since 05.07.2022 and the investigation is complete and the challan has already been presented and there are 19 witnesses and out of which, none have been examined and thus, the trial is likely to take time. There is no injury caused to any member of the complainant party which has been declared to be dangerous to life. The petitioner has relied upon four MLRs to show that the petitioner and three other persons belonging to the side of the petitioner have suffered injuries in the incident. Perusal of MLR (Annexure P-5) of the petitioner would show that he had suffered six injuries out of which, two injuries are on the head and there were four lacerated injuries. Even the MLR of Ajit Singh, who belonged to the side of the petitioner, would show that there were five injuries out of which, injury no.1 was on the head. Even one Dinkar, belonging to the petitioner party, had been injured and his MLR would show that eight injuries were suffered by him. The present dispute is between brothers and civil litigation is pending between the parties.

Keeping in view the above said facts and circumstances and in view of the law laid down in ***Maulana'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.

(VIKAS BAHL)
JUDGE

September 21, 2022
Davinder Kumar

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