

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(209)

CRM-M-43182-2022

Date of decision: - 23.09.2022

Rupinder Singh @ Ruby

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Ish Puneet Singh, Advocate, for the petitioner.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

VIKAS BAHL, J. (ORAL)

This is a second petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.94 dated 29.11.2021, registered under Sections 307, 341, 323, 324, 427, 506, 148 and 149 IPC and Sections 25 & 27 of the Arms Act, 1959, at Police Station City Zira, District Ferozepur.

Learned counsel for the petitioner has submitted that the earlier regular bail petition of the petitioner was withdrawn on 25.07.2022 with liberty to file a fresh petition after the report under Section 173 Cr.P.C. has been presented. It is submitted that the said report has been presented and thus, the present petition has been filed in accordance with the liberty granted. It is also submitted that the allegation levelled against the petitioner was of raising '*lalkara*' and of giving kick blows on the face

and stomach of the complainant along with other co-accused. It is stated that no injury attributed to the present petitioner has been declared grievous in nature and that no gun shot has been attributed to the present petitioner. It is further stated that the FIR in the present case had been registered after a delay of three days, inasmuch as, the incident was of 26.11.2021 and the FIR had been registered on 29.11.2021. It is contended that the petitioner has been in custody since 12.05.2022 and the investigation is complete and the challan has been presented and there are 19 witnesses, none of whom have been examined and thus, the trial is likely to take time.

Learned State counsel, on the other hand, has opposed the present petition and has submitted that two co-accused of the petitioner had fired gun shots at the complainant and the petitioner was sitting in the car, in which the accused had arrived at the spot to beat the complainant. It is also submitted that the petitioner is involved in three other cases and he 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.”

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

The allegations levelled against the present petitioner even as per the FIR were of raising '*lalkara*' and of giving kick blows on the face and stomach of the complainant along with other co-accused. None of the injuries attributed to the petitioner were declared either grievous or dangerous to life. The petitioner has not been alleged to have given any gun shot injury. The petitioner has been in custody since 12.05.2022 and the earlier bail petition of the petitioner was withdrawn on 25.07.2022 with liberty to file a fresh petition after the report under Section 173 Cr.P.C. has been presented. The investigation is complete and the challan has been presented and there are 19 witnesses, none of whom have been examined and thus, the trial is likely to take time.

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 23, 2022
naresh.k

(VIKAS BAHL)
JUDGE

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