

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(206)

CRM-M-51254-2021

Date of decision: - 10.02.2022

Akash Mehra

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Brijeshwar Singh Bhalla, Advocate,
for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

This is the second petition under Section 439 of Cr.P.C. for grant of regular bail in FIR No.92 dated 14.04.2021, under Sections 379-B and 411 IPC, at Police Station Civil Lines, District Amritsar.

Learned counsel for the petitioner has submitted that in the present case, the petitioner was not named in the FIR and he was arrested on 03.05.2021. It is further submitted that the challan against the petitioner has already been presented and there are 11 prosecution witnesses, none of whom have been examined and the trial is likely to

take time to conclude, moreso, in view of the present pandemic. It is also submitted that the mobile phone has already been recovered from the petitioner and nothing more is to be recovered from him. It is further submitted that although the first regular bail petition filed by the petitioner was withdrawn on 17.08.2021, but even after 17.08.2021, no witness has been examined and there is no progress in the trial in spite of lapse of 5½ months and thus, the petitioner deserves the concession of regular bail.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that the petitioner along with other co-accused had snatched the mobile phone of the complainant and the said mobile phone has been recovered from the petitioner. It is further submitted that the petitioner is involved in one more case of similar nature.

Learned counsel for the petitioner in rebuttal has submitted that in the other case the petitioner has already been granted the bail. He has relied upon a 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 the learned counsel for the parties and has perused the paper book.

It is not in dispute that the petitioner was not named in the FIR. The petitioner was arrested on 03.05.2021 and since then, he has been in custody and there are 11 witnesses, none of whom have been examined and the recovery has already been effected from the petitioner and nothing more is to be recovered from him. The earlier bail petition filed by the petitioner was withdrawn on 17.08.2021 and thereafter, about 5½ months has elapsed, but yet no witness has been examined and the trial is likely to take time to conclude, moreso, in view of the present pandemic and thus, the present petition for grant of regular bail deserves to be allowed.

Keeping in view the above-said facts and circumstances and also the law laid down by the Hon'ble Supreme Court in “**Maulana Mohd. Amir Rashadi** 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 / CJM, and subject to him not being required in any other case.

It is however made clear that in case the petitioner influences any witness then it would be open to the State to move an application for cancellation of bail of 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.

February 10, 2022
naresh.k

(VIKAS BAHL)
JUDGE

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