

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-44169-2022

Date of decision: - 29.09.2022

Sahil @ Chhota

....Petitioner

Versus

State of Haryana

....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Anshumaan Dalal, Advocate
for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

This is a first petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.0546 dated 16.12.2021, under Sections 323, 307, 341, 379-B, 511, 506 and 34 IPC and Sections 25 and 27 of the Arms Act, registered at Police Station Rohtak Sadar, District Rohtak, Haryana.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 25.01.2022 and the challan has been presented and there are total 23 prosecution witnesses, out of whom, none have been examined and thus, the trial is likely to take time. It is also submitted that although, in the present case there are three injured persons, but all the injuries suffered by them are simple in nature. It is submitted that the petitioner is stated to have fired from his pistol but there are no gun shot injuries suffered by any person. It is further stated

that co-accused of the petitioner, namely, Ashish @ Pushi and Sunil @ Tanni, have already been granted the concession of regular bail by this Court, vide order dated 01.06.2022, passed in CRM-M-23335-2022 and 23388-2022, respectively.

Learned State counsel on the other hand has opposed the present petition for regular bail and has submitted that the petitioner is involved in a large number of cases and is a habitual offender. It is further submitted that it is the petitioner who had fired and although there is no gun shot injury but the pistol has been recovered from the petitioner.

Learned counsel for the petitioner, in rebuttal, has submitted that the petitioner is on bail in all the cases 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 25.01.2022 and the

challan has been presented and there are total 23 prosecution witnesses, out of whom, none have been examined and thus, the trial is likely to take time. All the injuries, which have been caused to the three injured persons, are stated to be simple in nature. The petitioner is stated to have fired from his pistol but no gun shot injury has been suffered by any person. Moreover, co-accused of the petitioner, namely, Ashish @ Pushi and Sunil @ Tanni, have already been granted the concession of regular bail by this Court, vide order dated 01.06.2022, passed in CRM-M-23335-2022 and 23388-2022, respectively.

Keeping in view the above said facts and circumstances, 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 29, 2022

Davinder Kumar

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No