

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(236)

CRM-M-44812-2022 (O&M)

Date of decision: - 15.11.2022

Jaspreet Singh

....Petitioner

Versus

State of U.T. Chandigarh

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. A.P. Kaushal, Advocate, for the petitioner.

Mr. Anupam Bansal, Addl. PP for U.T. Chandigarh.

VIKAS BAHL, J. (ORAL)

This is the first petition under Section 439 Cr.P.C. to grant regular bail to the petitioner in FIR No.19 dated 10.02.2022, registered under Sections 379-A, 411 read with Section 34 IPC, at Police Station Manimajra, District Chandigarh.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 09.03.2022 and the investigation is complete and the challan has been presented and out of total 13 prosecution witnesses, six have been examined, thus, the trial is likely to take time. It is further submitted that the complainant as well as the victim have been examined and both of them have been declared hostile and have not supported the case of the prosecution. It is also submitted that the petitioner is involved in one more case, in which, he is already on bail 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.”

Learned counsel appearing on behalf of U.T. Chandigarh, on the other hand, has opposed the present petition for regular bail and has submitted that the recovery of Acura which was used in the crime has been made from the present petitioner. It is further submitted that out of 13 prosecution witnesses, six have already been examined and the remaining witnesses have been given up and the prosecution evidence has been closed.

This Court has heard learned counsel for the parties and has gone through the paper-book.

The petitioner has been in custody since 09.03.2022 and the investigation is complete and the challan has been presented. The FIR in the present case has been registered on the statement of Imran on the allegations that two unknown persons had snatched the mobile phone from his brother Farman. It is not in dispute that two star witnesses in the

present case i.e., Imran and Farman have not supported the case of the prosecution and have been declared hostile. No useful purpose would be served by keeping the petitioner in further incarceration.

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.

Pending miscellaneous application, if any, stands disposed of in view of the abovesaid judgment.

November 15, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No