

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-44986-2022(O&M)

Date of decision : 10.10.2022

Rohit @ Bona

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Satyawan Singh Nain, Advocate
for the petitioner.

Mr.Dhruv Sihag, AAG, Haryana.

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.41 dated 01.02.2021 registered under Section 379-B read with Section 34 IPC at Police Station Rai, District Sonipat.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 02.02.2021 and the investigation is complete and the challan has already been presented and there are 17 witnesses and out of which, five witnesses have been examined and thus, the trial is likely to take time. It is further submitted that the petitioner was not named in the FIR and the mobile phone has already been recovered in the present case and thus, no purpose would be served by keeping the petitioner in further incarceration. It is stated that in order to show his bonafide, the petitioner is ready to deposit Rs.5000/- before the trial Court within a period of three weeks from today and has no objection in case the

placed co-accused of the petitioner namely Satender has been granted regular bail by a coordinate Bench of this Court vide order dated 09.11.2021 passed in CRM-M-31351-2021.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that recovery of mobile phone has been effected from the petitioner in addition to Rs.500/- which was snatched by the petitioner along with his co-accused, from the complainant. It is further submitted that the petitioner is involved in one more case.

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 petitioner has been in custody since 02.02.2021 and the investigation is complete and the challan has already been presented and

and thus, the trial is likely to take time. Similarly placed co-accused of the petitioner namely Satender has already been granted regular bail by a coordinate Bench of this Court vide order dated 09.11.2021 passed in CRM-M-31351-2021 and recovery has already been effected and no purpose would be served by keeping the petitioner in further incarceration.

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 and subject to the petitioner depositing an amount of Rs.5000/- before the trial Court within a period of three weeks from today. The trial Court is directed to release the said amount of Rs.5000/- in favour of the complainant in the present case. The said deposit would not be construed as an admission of guilt by the petitioner.

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

October 10, 2022

Davinder Kumar