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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-48506-2022

Date of decision : 09.11.2022

Vipin

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. R.S. Rai, Sr. Advocate with
Mr. Sushil Jain, Advocate for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of regular bail to the petitioner in FIR No.592 dated 17.07.2020 registered under Section 302 of Indian Penal Code, 1860 (Section 201 read with Section 34 of IPC has been added later on) at Police Station Model Town Panipat, District Panipat.

Learned Senior Counsel for the petitioner has submitted that the petitioner is in custody since 18.08.2020 and investigation is complete and challan has been presented and there are 21 prosecution witnesses, out of which, 13 witnesses have been examined and thus, the conclusion

of the trial is likely to take time. It is further submitted that in the present case, the petitioner was not named in the FIR and there is no eye-witness of the alleged occurrence. It is contended that without there being any tangible evidence, the petitioner was arrested on 18.08.2020 and his disclosure statement was recorded on 21.08.2020 and that the petitioner is sought to be implicated in the present case solely on the basis of his own disclosure statement. It is further contended that even after his arrest, no tangible material has come forth so as to show the involvement of the present petitioner in the said crime. It is argued that the main witnesses i.e. PW9-Sapna, who is the complainant and daughter of the deceased as well as PW10-Vicky who is son-in-law of the deceased, they both have been examined and there is nothing in their examination-in-chief which would even remotely show that the present petitioner is involved in the occurrence. It is further argued that in fact, none of the said witnesses have stated anything incriminating against the present petitioner. It is also submitted that it is not the case of the prosecution that the petitioner was a relative of the deceased and would inherit any property after the death of the deceased person.

On the other hand, learned State Counsel has opposed the present petition for grant of regular bail to the petitioner and has submitted that in the present case, after the petitioner was arrested on 18.08.2020 and his disclosure statement was recorded on 21.08.2020, knives were recovered from the present petitioner which were used in the occurrence. It is stated that the petitioner is involved in two other cases

also.

Learned Senior Counsel, in rebuttal to the abovesaid arguments, has submitted that a perusal of the evidence of PW9 more so, her cross-examination would show that she had specifically stated that she does not know how many knives were lying at the spot when she reached there and that it was the police people who had told her that the deceased had died on account of knife blows. It is further submitted that there is nothing on record to show that the deceased had been stabbed/killed by inflicting blows with the knives which allegedly have been recovered from the present petitioner and there is no report suggesting that the blood of the deceased was there on the said knives. He has further 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 and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in another case. 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.

In the present case, the petitioner has been in custody since 18.08.2020 and investigation is complete and challan has been presented and out of 21 prosecution witnesses, 13 witnesses have been examined and thus, the conclusion of the trial is likely to take time. The petitioner was not named in the FIR and there is no eye-witness of the occurrence. No tangible material has been pointed out before this Court, on the basis of which, the petitioner was arrested on 18.08.2020. It is the case of the State that the said arrest was made on the basis of secret information. The primary evidence against the present petitioner in the present case is his own disclosure statement dated 21.08.2020. The complainant-Sapna has been examined as PW9 and a perusal of her evidence would show that she had stated in her examination-in-chief that some unknown persons had killed the deceased and had not stated that it was the present petitioner who, alongwith other co-accused, had killed the said deceased person. Even PW10-Vicky, who is the son-in-law of the deceased, had not specifically named the present petitioner.

Keeping in view the abovesaid facts and circumstances and also in view of 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 regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate, 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 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 an 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 application.

09.11.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No