

231

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

CRM-M-48861-2022

Date of decision : 16.11.2022

Mohammad Sajid @ Sajji and another

...Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Munfaid Khan, Advocate for the petitioners.

Mr. G.S. Dhillon, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of regular bail to the petitioners in FIR No.66 dated 15.02.2022 registered under Sections 276, 336, 429, 201 of Indian Penal Code, 1860 and Sections 5/13(2), 17 of the Haryana GovanshSanrakshan and Gosamvardhan Act, 2015 and Section 11 of the Prevention of Cruelty to Animals Act, 1960 at Police Station Bawal, District Rewari.

Learned counsel for the petitioners has submitted that as per the FIR, three persons i.e. Mousam, Raju and Rahul were apprehended at the spot and it has been stated that the present petitioners had run away. It is further submitted that it is highly unlikely that the petitioners were able to jump out from the truck and flee from the spot in the presence of the police party. It is contended that the three persons who were apprehended at the spot i.e.

Mousam, Raju and Rahul, have been granted the concession of regular bail by the Coordinate Bench of this Court on 21.04.2022 in CRM-M-12507-2022. It is further contended that the petitioners are in custody since 18.09.2022 and investigation is complete and challan has been presented and there are 12 prosecution witnesses, out of which, none have been examined yet and thus, the conclusion of trial is likely to take time.

On the other hand, learned State Counsel has opposed the present petition for grant of regular bail to the petitioners and has submitted that petitioner No.1 is involved in one more case and petitioner No.2 is involved in two more cases.

Learned counsel for the petitioners in rebuttal to the said argument 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 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.

As per prosecution's case, three persons were apprehended at the spot i.e. Mousam, Raju and Rahul and it is the case of the prosecution that the

present petitioners managed to flee from the spot. Three persons, who were apprehended at the spot and from whom the recovery had been effected, have been granted the concession of regular bail by a Coordinate Bench of this Court on 21.04.2022 in CRM-M-12507-2022. The case of the petitioners is on a better footing than the case of the said three persons. The petitioners are in custody since 18.09.2022 and investigation is complete and challan has been presented and out of 12 prosecution witnesses, none have been examined as yet and thus, the conclusion of trial is likely to take time.

Keeping in view the abovesaid facts and circumstances as well as law laid down in *Maulana Mohd. Amir Rashadi's* case (Supra), the present petition is allowed and the petitioners are ordered to be released on regular bail on their furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate, subject to them not being required in any other case.

However, it is made clear that in case, any act is done by the petitioners 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 petitioners.

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.

16.11.2022*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:- Yes/No****Whether reportable:- Yes/No**