

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

230

CRM-M-52064-2022
Decided on :12.12.2022

Gurpreet Singh @ Gopi

. . . Petitioner

Versus

State of Punjab

. . . Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Anil Kumar Spehia, Advocate
for the petitioner.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

VIKAS BAHL, J. (Oral)

The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No. 24 dated 02.04.2014 under Section 394 of the Indian Penal Code, 1860 and Sections 25, 54, 59 of the Arms Act registered at Police Station Bilga, District Jalandhar City.

Learned counsel for the petitioner has submitted that the petitioner had earlier filed regular bail application which was dismissed as withdrawn on 16.08.2022 with liberty to file a fresh petition after incorporating correct and detailed facts and the present petition has been filed after complying with the same and thus, the present petition is in effect the first petition for regular bail. It is submitted that the total custody of the petitioner is 3 years, 10 months and 27 days and there are

as many as 27 prosecution witnesses out of whom, only 4 have been examined and thus, the trial is likely to take time. It is further submitted that the co-accused of the petitioner namely Amandeep Singh @ Amna and Kulwinder Singh @ Billa have been acquitted vide judgment dated 20.11.2018 passed by the Judicial Magistrate 1st Class, Phillaur and in the said case, the eye witness PW-1 Brajesh Kumar has resiled from his earlier statement and PW-2 Ram Lotan, who is the complainant in the present case, has not turned up for cross-examination. It is contended that keeping in view the abovesaid facts and the custody period, the petitioner deserves the concession of regular bail.

Learned State counsel on the other hand has opposed the present application for regular bail and has submitted that the petitioner was declared as proclaimed offender and was arrested on 13.12.2021 and is also involved in other cases.

Learned counsel for the petitioner has rebutted the said argument and submitted that as per settled law, it is the facts of the present case which are required to be considered for the purpose of deciding the present bail application. For the said proposition, learned counsel for the petitioner has relied upon judgment dated 16.01.2012 passed by the Hon'ble Supreme Court in Criminal Appeal No.159 of 2012 titled as ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and others*** 2012 (2) SCC 382 reference has been made to the relevant portion of paragraph 6 which 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.”

Keeping in view the abovesaid facts and circumstances, moreso, the fact that the actual custody of the petitioner is 3 years, 10 months and 27 days and challan has been presented and there are as many as 27 prosecution witnesses out of whom, only 4 have been examined and thus, the trial is likely to take time and also the fact that the co-accused of the petitioner namely Amandeep Singh @ Amna and Kulwinder Singh @ Billa have been acquitted in the present case vide judgment dated 20.11.2018 and a perusal of para 5 of the said judgment would show that the eye witness in the said case PW-1 Brajesh Kumar has resiled from his earlier statement and PW-2 Ram Lotan, who is the complainant in the present case, has not turned up for cross-examination and also in view of the law laid down in Maulana's (*supra*) case, 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, 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 application.

It is made clear, in case, the petitioner threatens or influences any witness, it would be open to the State to move an application for cancellation of the present regular bail granted to the petitioner.

(VIKAS BAHL)
JUDGE

12.12.2022
Mehak

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No