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

CRM-M-52798-2022

Date of decision : 22.11.2022

Darshan Singh @ Kali

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Rajeev Sharma, Advocate for the petitioner.

Mr. Ramdeep Partap Singh, Sr. DAG, Punjab.

VIKAS BAHL, J. (ORAL)

This is the second petition for grant of regular bail to the petitioner in FIR No.116 dated 03.05.2022 registered under Sections 379-B/34 of Indian Penal Code, 1860 at Police Station Division No.5, District Ludhiana, Punjab.

Learned counsel for the petitioner has submitted that the petitioner is in custody since 03.05.2022 and investigation is complete and challan has been presented and there are 8 prosecution witnesses, out of which, none have been examined as yet and thus, the conclusion of trial is likely to take time. It is further submitted that the earlier bail application of the petitioner was withdrawn on 31.08.2022 at that stage and even after the same, no progress has been made in the case and not even a single witness has been examined and thus, entitling the petitioner to file the present petition. It is contended that the

petitioner has been implicated in the case only on the basis of secret information and the complainant in the present case is a police official and FIR was registered on the allegations that the petitioner and one Suraj Kumar are coming to sell mobile phones which they have stolen. It is further contended that all the witnesses are the police officials. It is argued that recovery has already been effected from the present petitioner and thus, no purpose would be served by keeping the petitioner in further incarceration.

On the other hand, learned State Counsel, has opposed the present petition for grant of regular bail to the petitioner and has submitted that five mobile phones and one *datar* have been recovered from the present petitioner and that the present petitioner is involved in two other cases.

Learned counsel for the petitioner, in rebuttal to the abovesaid argument, has submitted that out of the abovesaid cases, the petitioner has been acquitted in one case and in another case, he has already undergone the sentence 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 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 learned counsel for the parties and has

perused the paper book.

In the present case, the petitioner is in custody since 03.05.2022 and investigation is complete and challan has been presented and out of 8 prosecution witnesses, none have been examined as yet and thus, the conclusion of trial is likely to take time. Recovery has already been effected in the present case and no useful purpose would be served by keeping the petitioner in further incarceration and all the witnesses are police officials.

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 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.

22.11.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No