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

CRM-M-52455-2022

Date of decision : 18.11.2022

Bajinder

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Raj Mohan Singh, 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.210 dated 24.02.2022 registered under Sections 379-A and 34 of Indian Penal Code, 1860 at Police Station Barwala, District Hisar.

Learned counsel for the petitioner has submitted that the petitioner is in custody since 25.02.2022 and investigation is complete and challan has been presented and there are 12 prosecution witnesses, out of which, only two prosecution witnesses have been examined and thus, the conclusion of trial is likely to take time. It is further submitted that in the present case, although, Deepak @ Deepu has been specifically named in the FIR but the present petitioner has not been named and no recovery has been effected from the present petitioner. It is contended that recovery of

motorcycle has been effected from Deepak @ Deepu and recovery of mobile phone has been effected from Raju @ Bunty.

On the other hand, learned State Counsel, has opposed the present petition for grant of regular bail to the petitioner and has submitted that the petitioner is involved in two other cases also. However, other facts as stated by the learned counsel for the petitioner have not been disputed by him.

Learned counsel for the petitioner, in rebuttal to the abovesaid argument, has submitted that out of the abovesaid two cases, in one case, the petitioner has been acquitted and other case is pending 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 25.02.2022

and investigation is complete and challan has been presented and out of 12 prosecution witnesses, only two prosecution witnesses have been examined and thus, the conclusion of trial is likely to take time. The petitioner has not been named in the FIR and no recovery has been effected from him.

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.

18.11.2022*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:-****Yes/No****Whether reportable:-****Yes/No**