

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-58474-2022

Date of decision : 20.12.2022

Madan

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

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

Mr. Vishal Malik, DAG, Haryana.

VIKAS BAHL, J.(ORAL)

This is the first petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.196 dated 24.09.2021 registered under Sections 420, 406, 467, 468, 471, 120-B IPC at Police Station Farakpur, District Yamuna Nagar, during the pendency of the trial.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 17.01.2022 and the investigation is complete and the challan has already been presented and there are 19 witnesses, out of which, 4 have been examined and thus, the trial is likely to take time. It is further submitted that as per the FIR, the allegation of duping the complainant to the extent of Rs.4,85,000/- for providing a job has been levelled against the present petitioner and the co-accused Varun and the complainant had compromised the matter and said Varun had filed a petition under Section 482 Cr.P.C. for quashing of the FIR on the basis of

Court vide order dated 06.09.2022. It is stated that the case is triable by a Magistrate and the entire case is based on documentary evidence and no purpose would be served by keeping the petitioner in further incarceration.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that in the present case school certificates, aadhar card, 4 photographs of the complainant, and Rs.4,85,000/- was duped and out of Rs.4,85,000/-, Rs. 2 lacs has been transferred into the account of the present petitioner and Rs.15,000/- have been recovered from the present petitioner. It is further submitted that the petitioner is involved in two other cases.

Learned counsel for the petitioner, in rebuttal, 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 while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other cases. 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.

Keeping in view the above said facts and circumstances

moreso, the fact that the petitioner has been in custody since 17.01.2022 and the investigation is complete and the challan has already been presented and there are 19 witnesses, out of which, 4 have been examined and thus, the trial is likely to take time and also the fact that although allegation has also been levelled against co-accused Varun in the FIR but the matter has been compromised between co-accused Varun and the complainant and a petition filed under Section 482 Cr.P.C. by Varun for quashing of the FIR on the basis of compromise has been allowed by the coordinate Bench of this Court vide order dated 06.09.2022 and also the fact that the entire case is based on documentary evidence and no useful purpose would be served by keeping the petitioner in further incarceration and in view of the law laid down in ***Maulana's*** case (supra), 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, it is made clear that in case, any act is done by the petitioner to threaten or influence 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 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 petition.

(VIKAS BAHL)
JUDGE

December 20, 2022

Davinder Kumar