

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

230

CRM-M-58625-2022
Decided on :21.12.2022

Gurwinder Singh @ Rinku

. . . Petitioner

Versus

State of Punjab

. . . Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. G. S. Brar, Advocate
for the petitioner.

Mr. Amit Shukla, AAG, Punjab.

VIKAS BAHL, J. (Oral)

This is a first petition under Section 439 Cr.P.C. for grant of regular bail to the petitioners in FIR No. 134 dated 14.06.2022 registered under Sections 399, 402 IPC (Section 201 IPC added later on) and Section 25 of the Arms Act, 1959 at Police Station Focal Point, District Police Commissionerate Ludhiana.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 14.06.2022 and the challan has already been presented and there are 17 witnesses, out of which, none have been examined and thus, the conclusion of trial is likely to take time. It is further submitted that the present FIR has been registered on the allegations that the petitioner along with other co-accused were preparing to commit an illegal offence but however no offence has been committed by the petitioner, thus, 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 to the petitioner and has submitted that one iron dah and an amount of Rs. 6,000/- were recovered from the petitioner in the present case and the petitioner is involved in one more case.

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 14.06.2022

and the challan has already been presented and out of 17 witnesses, none have been examined and thus, the conclusion of trial is likely to take time and recovery has already been effected from the petitioner, 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.

21.12.2022
Mehak

(VIKAS BAHL)
JUDGE

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