

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

208

CRM-M-59431-2022
Decided on :23.12.2022

Harjit Singh

. . . Petitioner

Versus

State of Punjab and another

. . . Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. J. S. Thakur, 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. 166 dated 24.09.2022 registered under Sections 379-B, 506 and 34 IPC (Section 201 IPC added later on) at Police Station Kamboj, District Amritsar Rural.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 25.09.2022 and the investigation is complete and the challan has already been presented and there are 8 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 after a delay of 20 days inasmuch as, the alleged incident is of 04.09.2022 whereas the FIR has been registered on 24.09.2022 and the same has been registered on the statement of Lehna Singh, who is stated to be a 70 year old person and

who has stated that after the alleged incident had taken place, he had investigated at his own level and then named the accused persons, including the present petitioner, as the persons who had committed the incident on 04.09.2022. It is submitted that it is not the case of the prosecution that it was on the basis of some investigation carried out by the police that the involvement of the present petitioner was found rather the investigation was done by the complainant himself. Learned counsel for the petitioner has further relied upon the affidavit dated 15.11.2022 of the said Lehna Singh wherein he has stated that he had not given any statement against the petitioner and one another co-accused and that the said affidavit was also produced before the learned Sessions Judge, Amritsar. It is contended that no recovery has been effected from the present petitioner.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that an amount of Rs. 40,000/- has been recovered from the co-accused of the present petitioner, although, he has not denied the fact that no recovery has been effected from the present petitioner. It is also 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 25.09.2022 and the investigation is complete and the challan has already been presented and there are 8 witnesses, out of which, none have been examined and thus, the conclusion of trial is likely to take time and there was a delay of 20 days in the registration of the FIR and no recovery has been effected from the present petitioner and also the fact that an affidavit dated 15.11.2022 has been stated to have been given by the complainant stating that the present petitioner is innocent and is not involved in the present case and the said affidavit has also been produced before the Sessions Judge, Amritsar 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.

23.12.2022
Mehak

(VIKAS BAHL)
JUDGE

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