

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

(207)

CRM-M-472-2023 (O&M)

Date of decision: - 09.02.2023

Malkito @ Lajwanti

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Ms. Manpreet Ghuman, Advocate,  
for the petitioner.

Ms. Upasana Dhawan, AAG, Haryana.

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VIKAS BAHL, J. (ORAL)

CRM-6319-2023

Present application has been filed under Section 482 Cr.P.C.  
for placing on record copy of report as Annexure A-2.

Application is allowed, as prayed for. Copy of report  
(Annexure A-2) is taken on record, subject to all just exception.

CRM-2470-2023

Present application has been filed under Section 482 Cr.P.C.  
for placing on record copy of order as Annexure A-1.

Application is allowed, as prayed for. Copy of orders  
(Annexure A-1) is taken on record, subject to all just exception.

CRM-M-472-2023

This is the third petition under Section 439 Cr.P.C. to grant

regular bail to the petitioner in FIR No.364 dated 13.08.2021, registered under Sections 379-A and 201 IPC, at Police Station Taraori, District Karnal.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 13.08.2021 and the last bail application was withdrawn by the petitioner on 27.04.2022 to file fresh petition after the complainant Balbir Kaur and victim Meenu have been examined. It is further submitted that out of total 21 prosecution witnesses, only 1 witness has been examined, thus, the trial is likely to take time. It is further submitted that Balbir Kaur has been examined, but inspite ofailable warrants having been issued against PWs Meenu and Lakhmir Kaur on 07.10.2022 as well as on 02.12.2022, the said witnesses have not appeared, nor have been examined. It is stated that as per the report (Annexure A-2), the said Meenu had gone abroad alongwith her husband. It is submitted that in the said circumstances, the petitioner on the basis of custody alone, deserves to be granted the regular bail. It is stated that as per the case of the prosecution, the petitioner in the present case was caught at the spot and the recovery has already been from him and thus, no useful purpose would be served by keeping him in further incarceration. It is further stated that with respect to victim Meenu, it is some other lady, who had committed snatching of the neck chain of the said Meenu, as even as per the case of the prosecution, the said lady had run away, whereas, the petitioner was apprehended at the spot.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that the petitioner is

involved in several other cases, in which, most of them are the cases registered under the same provisions of law as in the present case and thus, the petitioner is a habitual offender.

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.”*

Keeping in view the above-said facts and circumstances, more so, the fact that the petitioner has been in custody since 13.08.2021 and out of total 21 prosecution witnesses, only 1 witness has been examined, thus, the trial is likely to take time and also the fact that the recovery has already been effected from the present petitioner and the fact that despite issuance of bailable warrants, victim Meenu has not appeared before the trial Court and as per the report (Annexure A-2), the said Meenu is stated to have gone abroad, the present petition is allowed and the petitioner is ordered to be released on bail on her furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty

Magistrate and subject to her 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.

February 09, 2023  
naresh.k

( VIKAS BAHL )  
JUDGE

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