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

CRM-M-2894-2023
Date of decision : 24.01.2023

Amit Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Sanpreet Sandhu, Advocate for the petitioner.

Ms. Upasana Dhawan, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

This is the second petition filed under Section 439 of Cr.P.C. for grant of regular bail to the petitioner in FIR No.270 dated 09.05.2022 registered under Sections 148, 149, 285, 323, 379-B of Indian Penal Code, 1860 and Section 25 of the Arms Act, 1959 at Police Station Tehsil Camp, District Panipat (charges were framed under Sections 307, 379-B read with Section 34 of IPC and Section 25 of the Arms Act and Sections 148, 149, 285, 323 of IPC were deleted later on)

Learned counsel for the petitioner has submitted that the petitioner is in custody since 04.07.2022 and his earlier bail application was dismissed as withdrawn on 18.11.2022, at that stage. It is further submitted that in the present case, there are 16 prosecution witnesses, out of which, none have been examined as yet and thus, the trial has not made much progress and that co-accused of petitioner namely Mohan @ Monu, from whom the recovery of pistol has been effected, has already been granted the concession of regular bail

by the Coordinate Bench of this Court vide order dated 10.01.2023 passed in CRM-M-49637-2022. It is contended that there is no injury caused to any person in the present case.

On the other hand, learned State Counsel, has opposed the present petition for grant of regular bail and has submitted that the petitioner was nominated on the basis of disclosure statement of co-accused Mohan @ Monu and as per the case of the prosecution, it is the petitioner who had used the pistol, although, same was recovered from Mohan @ Monu. It is further contended that the petitioner is involved in five other cases and thus, does not deserve the concession of regular bail.

Learned counsel for the petitioner, in rebuttal, has submitted that in one of the abovesaid cases, the petitioner has been acquitted and in all other cases except one, he is on anticipatory bail/regular bail 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.

Keeping in view the abovesaid facts and circumstances, more so, the facts that the petitioner is in custody since 04.07.2022 and out of 16 prosecution witnesses, none have been examined as yet and thus, the conclusion of trial is likely to take time and also the fact that in the present case, no injury has been caused to any person and that the co-accused of petitioner namely Mohan @ Monu has already been granted the concession of regular bail by the Coordinate Bench of this Court vide order dated 10.01.2023 passed in CRM-M-49637-2022 and the recovery of pistol was effected from the said Mohan @ Monu and also in view of 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.

24.01.2023*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:- Yes/No****Whether reportable:- Yes/No**