

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANIDGARH

215

CRM-M-3678 of 2023
Date of Decision: 30.01.2023

Rahul @ Sallu

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Vijay Sangwan, Advocate
for the petitioner.

Mr. Rajneesh Chadwal, AAG, Haryana.

VIKAS BAHL, J (ORAL)

This is the second petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.408 dated 18.12.2021, under Sections 285, 323, 395, 506 IPC and Sections 25/54/59 of Arms Act, 1959 (Sections 397 and 120-B IPC added later on), registered at Police Station Sadar Narnaul, District Mahendergarh.

Learned counsel for the petitioner has submitted that the petitioner is in custody since 05.04.2022 and there are 22 witnesses, out of which, none have been examined. It is further submitted that the petitioner had earlier filed a regular bail petition which was dismissed as withdrawn at that stage on 22.07.2022 and even thereafter, no witness has been examined and the trial has not made any progress. It is stated that the investigation in the present case is complete and no purpose would be served by keeping the petitioner in further incarceration. It is further stated that no recovery has

been effected from the present petitioner and co-accused Dharampal @ Baka has been granted the concession of regular bail by this Court in CRM-M-44255-2022, vide order dated 16.01.2023.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that in the present case, Section 201 IPC has been added since the mobile phone was destroyed by the petitioner and that the petitioner is involved in two other cases. The other facts, have, however, not been disputed.

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 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 05.04.2022 and there are 22 witnesses and none of them have been examined and thus, the trial is likely to take time and also the fact that no recovery has been

effected from the present petitioner and the co-accused of the petitioner Dharampal @ Baka has been granted the concession of regular bail by this Court in CRM-M-44255-2022, vide order dated 16.01.2023, and the case of the petitioner is on a similar footing to the said co-accused and also keeping in view 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 of 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.

30.01.2023*D.Bansal***(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No