

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

(220)

CRM-M-4005-2023

Date of decision: - 10.04.2023

Rohit @ Cheeku

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Ms. Puja Chopra, Advocate
for the petitioner.

Mr. Ferry Sofat, Additional Advocate General, Punjab.

VIKAS BAHL, J. (ORAL)

This is the second petition under Section 439 Cr.P.C. to grant regular bail to the petitioner in FIR No.218 dated 14.05.2021, registered under Sections 307, 324, 323, 148 and 149 IPC, at Police Station Kotwali Patiala, District Patiala.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 24.02.2022 and out of total 15 prosecution witnesses, only two have been examined, thus, the trial is likely to take time. It is further submitted that earlier bail application of the petitioner was withdrawn on 15.12.2022 with liberty to file a fresh petition after giving full and better particulars and thereafter, the present petition has been filed and thus, in effect the present petition is the first bail application filed by the petitioner. It is contended that in the present

case, at best injuries No.7, 8 & 9 could be attributed to the present petitioner and none of the said injuries have been individually stated to be dangerous to life. It is stated that the medical opinion has been given by a private hospital. It is submitted that the injured is keeping good health and has been examined as PW-2 and he has turned hostile qua Manav @ Gandhi and Manni, which are the two persons, he had specifically named earlier in his statement. It is further submitted that keeping in view the custody of the petitioner and other factors, the petitioner be released on regular bail.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that as per the allegations in the FIR, the petitioner had given multiple blows with a knife on the chest and abdomen of the injured and the injuries given by the petitioner alongwith other injuries given by the other co-accused persons have collectively been declared to be dangerous to life, vide opinion dated 22.05.2021 (Annexure P-5) by the Amar Hospital. It is further submitted that the petitioner is a habitual offender and is involved in other cases also and in one of the case, he is not on bail. It is also submitted that PW-2 has not turned hostile qua the present petitioner.

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 gone through the paper-book.

Keeping in view the above-said facts and circumstances, more so, the fact that the petitioner has been in custody since 24.02.2022 and out of total 15 prosecution witnesses, only two have been examined, thus, the trial is likely to take time and also the fact that the injured has been examined and he has been declared partly hostile qua Manav @ Gandhi and Manni and also the fact that injuries attributed to the present petitioner have not been specifically declared dangerous to life and as per the report of the Amar Hospital, all the injuries collectively are dangerous to life and also in view of the law laid down in **Maulana Mohd. Amir Rashadi's case (supra)**, the present petition is allowed and the petitioner is directed to be released on regular 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.

April 10, 2023
naresh.k

(VIKAS BAHL)
JUDGE

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