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

CRM-M-5690-2023

Date of decision : 08.02.2023

Bhupinder Singh @ Bhinda

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. G.S. Brar, Advocate for the petitioner.

Mr. Ferry Sofat, Addl. A.G. Punjab.

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.27 dated 09.02.2022 registered under Sections 307, 326, 323, 427, 325, 506, 34 of Indian Penal Code, 1860 (Section 324 of IPC has been added later on) at Police Station Kartarpur, District Jalandhar Rural.

Learned counsel for the petitioner has submitted that the petitioner is in custody since 27.05.2022 and there are 18 prosecution witnesses, out of which, none have been examined as yet and thus, the conclusion of trial is likely to take time. It is further submitted that the earlier bail application of the petitioner was dismissed as withdrawn on 23.09.2022 at that stage and even, thereafter, sufficient period has elapsed

but no progress has been made in the trial. It is contended that in the present case, FIR has been registered after a delay of period of three days inasmuch as the incident is of 06.02.2022 whereas FIR has been registered on 09.02.2022. It is further contended that as per the case of prosecution, there were two injured persons, one was Manjot Singh (complainant) and the other was Simranpal Singh and both the said persons had been discharged from Patel Hospital Private Limited, Jalandhar on 08.02.2022 and 10.02.2022, respectively and for the said purpose, learned counsel for the petitioner has referred to the document containing case summaries (Annexure P-4). It is also submitted that a perusal of Annexure P-2, which is information sent by the Patel Hospital Private Limited to the Police Station, would show that it has been stated that the present case is a case of accident. It is also contended that Manjot Singh is alleged to have suffered two injuries, both of which are simple and Simranpal Singh has been alleged to have suffered six injuries.

On the other hand, learned State Counsel has opposed the present petition for grant of regular bail to the petitioner and has submitted that the two injuries suffered by Simranpal Singh i.e., injury Nos.1 and 5, were declared to be dangerous to life and that the petitioner is involved in two other cases and thus, does not deserve the concession of regular bail.

Learned counsel for the petitioner, in rebuttal, has submitted that a perusal of MLR of said Simranpal Singh would show that injury Nos.1 and 5 have been declared to be dangerous to life by a private hospital and injury No.1 is a laceration on lateral aspect of left lower thigh whereas injury No.5 is pubic rami pain with tenderness and has submitted that the

said two injuries along with the fact that within a period of four days from the date of alleged incident, said Simranpal Singh was discharged from the Hospital would prima facie show that the said injuries are not dangerous to life.

Learned counsel for the petitioner, in rebuttal to the aspect of the petitioner being involved in other cases, has submitted that the petitioner is on bail in all three other cases 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 in the present case, the petitioner is in custody since 27.05.2022 and out of 18 prosecution witnesses, none have been examined as yet and thus, the conclusion of trial is likely to take time and also the fact that there is a delay of three days in registration of the FIR inasmuch as the

incident took place on 06.02.2022 whereas the FIR had been registered on 09.02.2022 and also the fact that both the injured persons i.e., Manjot Singh and Simranpal Singh have been discharged on 08.02.2022 and 10.02.2022, respectively, as is apparent from Medical Certificate (Annexure P-4) 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 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.

08.02.2023*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:-****Yes/No****Whether reportable:-****Yes/No**