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

CRM-M-6391-2023
Date of decision : 10.02.2023

Kulwinder Singh @ Santa

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Ms. Isha Goyal, 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.147 dated 27.04.2022 registered under Sections 379-B, 411, 201 of Indian Penal Code, 1860 at Police Station B Division, District Amritsar.

Learned counsel for the petitioner has submitted that the petitioner is in custody since 02.05.2022 and there are 19 prosecution witnesses, out of which, only one witness has 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 It is further submitted that the earlier bail application of the petitioner was dismissed as withdrawn on 10.11.2022 at that stage and even, subsequent to the said order, the complainant-Lakhwinder Kaur has been examined as PW1 and she has specifically stated in her examination-in-chief that she could not identify the

person who had committed snatching and the present petitioner was not the person who had committed snatching. It is contended that the petitioner was not named in the FIR and the complainant who is the star witness has not supported the case of the prosecution.

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 recovery of Rs.2000/-, stitched suit, spectacles, Aadhaar Card and small purse has been effected from the present petitioner and the petitioner is involved in two other cases of similar nature also and thus, the petitioner does not deserve the concession of regular bail.

Learned counsel for the petitioner, in rebuttal, has submitted that the petitioner is on bail in the abovesaid 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 02.05.2022 and out of 19 prosecution witnesses, only one witness has been examined as yet and thus, the conclusion of trial is likely to take time and also the fact that recovery has already been effected and that the star witness i.e. complainant has been examined as PW1 who has specifically stated that the present petitioner was not the person who had committed snatching and has thus, not supported the case of the prosecution 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.

10.02.2023*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:- Yes/No****Whether reportable:- Yes/No**