

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANIDGARH

206

CRM-M-8040 of 2023
Date of Decision: 21.02.2023

Ravi

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Deepak Kundu, Advocate
for the petitioner.

Ms. Upasna Dhawan, AAG, Haryana.

VIKAS BAHL, J (ORAL)

This is the third petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.243 dated 30.04.2021, under Sections 341, 379-A, 34 IPC (Sections 379-B/397/392/201 IPC and Section 25 of the Arms Act, 1959 added later on), registered at Police Station Sampla, District Rohtak.

Learned counsel for the petitioner has submitted that the petitioner is in custody since 05.05.2021 and out of 15 witnesses, only one has been examined and thus, trial is likely to take time. It is further submitted that the second bail application of the petitioner was dismissed as withdrawn at that stage on 01.06.2022 and a direction was given to the trial Court to expedite the trial. It is submitted that in spite of the order passed by this Court, the trial has not been expedited and reference has been made to the zimni orders dated 05.08.2022, 18.10.2022 and 19.01.2023 to highlight that in spite of service and issuance ofailable warrants, the

witnesses are not appearing. He has further submitted that recovery in the present case has already been effected.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that in the present case, recovery of the stolen motor-cycle and one pistol has been effected from the petitioner. She has further submitted that the petitioner is involved in three other cases. The other facts, have, however, not been disputed.

Learned counsel for the petitioner, in rebuttal, has submitted that out of three cases, one case is under Excise Act and two other cases are with respect to a matrimonial dispute with the wife of the petitioner 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 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 05.05.2021 and there are 15 witnesses and only one witness has been examined and thus,

the trial is likely to take time and this Court vide order dated 01.06.2022 directed the trial Court to expedite the trial but a perusal of the zimni orders would show that in spite of issuance of bailable warrants, the witnesses including, PW ASI Sohan Lal, are not appearing before the trial Court 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 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.

21.02.2023*D.Bansal***(VIKAS BAHL)
JUDGE**

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