

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(210)

CRM-M-7994-2023

Date of decision: - 20.02.2023

Ramjani

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Karan Singh, Advocate,
for the petitioner.

Ms. Upasana Dhawan, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

This is the third petition under Section 439 Cr.P.C. to grant regular bail to the petitioner in FIR No.208 dated 16.05.2022, under Sections 120-B and 307 of the IPC; Section 13(1), 13(2) of the Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015 and Section 25 (1B)(a) of the Arms Act, 1959 registered at Police Station Furrukh Nagar, District Gurugram.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 16.05.2022 and the first bail application of the petitioner was dismissed as withdrawn at that stage on 01.09.2022 and the second petition filed by the petitioner was dismissed

as withdrawn with liberty to file fresh petition after giving full and better particulars. It is submitted that in effect, the present petition is the second petition filed by the petitioner for the grant of regular bail. It is also submitted that in the present case, out of total 20 prosecution witnesses, none have been examined and even after passing of the said order dated 01.09.2022, no witness has been examined and, thus, the trial is likely to take time. It is stated that no injury was caused to any person and the alleged act attracting offence under Section 307 IPC has been attributed to co-accused Parvez Alam and the recovery of country made pistol has been effected from co-accused of the petitioner, namely, Nooru . It is further stated that the said Nooru has been granted the concession of regular bail by a Co-ordinate Bench of this Court, vide order dated 02.02.2023 passed in CRM-M-3945-2023 and the case of the petitioner is on a better footing than that of said Nooru.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that the petitioner and other co-accused were apprehended at the spot and 15 bulls were recovered from the vehicle in question. It is further submitted that the petitioner is involved in one more case.

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.”

Keeping in view the above-said facts and circumstances, more so, the fact that the petitioner has been in custody since 16.05.2022 and out of total 20 prosecution witnesses, none have been examined, thus, the trial is likely to take time and also the fact that the act attracting offence under Section 307 IPC has not been attributed to the present petitioner and the co-accused Nooru, from whom the recovery of country made pistol has been effected, has already been granted the concession of regular bail by a Co-ordinate Bench of this Court, vide order dated 02.02.2023 passed in CRM-M-3945-2023 and the case of the petitioner is on a better footing than that of said co-accused Nooru 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 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.

February 20, 2023
naresh.k

(VIKAS BAHL)
JUDGE

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