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

CRM-M-11637-2023

Date of decision : 14.03.2023

Raja

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Piyush Setia, Advocate for the petitioner.

Mr. Rohit Ahuja, DAG, 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 19.02.2021 registered under Sections 379-B, 325, 323, 341, 34 of Indian Penal Code, 1860 at Police Station City-1, Abohar, District Fazilka.

Learned counsel for the petitioner has submitted that the petitioner is in custody since 19.07.2022 and investigation is complete and the challan has been presented and there are 11 prosecution witnesses, out of which, three witnesses have been examined and thus, the conclusion of trial is likely to take time. It is further submitted that earlier bail application filed by the petitioner was dismissed as withdrawn at that stage on 05.12.2022 and thereafter, the complainant-Harpal Singh, the alleged eye-

witness-Vikram and one Doctor, who are the material witnesses, have been examined. It is contended that there is a delay of more than 11 days in registration of FIR inasmuch as the incident is of 07.02.2021 whereas FIR has been registered on 19.02.2021. It is further contended that although, the petitioner has been alleged to have given injuries on the head of the complainant but no such injuries have been suffered by the complainant on the head. It is also submitted that the petitioner in order to show his bona fide, is ready to give an amount of Rs.15,000/- to the complainant without admitting his liability within a period of one month from today.

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 petitioner along with other co-accused, had stolen one gold ring and Rs.4580/- from the complainant and had also caused injury to the complainant on his little finger. It is further submitted that the petitioner is involved in one more case.

Learned counsel for the petitioner, in rebuttal, has submitted that the alleged injury on the finger has been attributed to the co-accused Gaurav and that the petitioner is on bail in other case 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.”

Keeping in view the abovesaid facts and circumstances more so the facts that in the present case, the petitioner is in custody since 19.07.2022 and investigation is complete and the challan has been presented and out of 11 prosecution witnesses, three material witnesses have been examined i.e. complainant-Harpal Singh, the alleged eye-witness-Vikram and one Doctor and eight prosecution witnesses are yet to be examined and thus, the conclusion of trial is likely to take time and also in view of the fact that there is a delay of more than 11 days in registration of FIR and the petitioner is also ready to pay an amount of Rs.15,000/- to the complainant in order to show his bona fide, 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.

The petitioner is directed to deposit an amount of Rs.15,000/- within a period of one month from today before the trial Court and the trial Court is directed to release the same in favour of the complainant.

The payment of the amount of Rs.15,000/- would not be construed as an admission of guilt by the petitioner.

It is made clear that in case, the said amount is not deposited within the aforesaid time period, then the present petition would be deemed

to have been dismissed.

Moreover, 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.

14.03.2023
Pawan

(VIKAS BAHL)
JUDGE

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