

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-12758-2023

Date of decision : 18.05.2023

Rajwan

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHLPresent: Mr.Rajiv Kumar Saini, Advocate
for the petitioner.

Ms.Upasana Dhawan, AAG, Haryana.

VIKAS BAHL, J.(ORAL)

1. This is the second petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.9 dated 11.01.2017 registered under Sections 279, 336, 307 IPC and Section 25 of the Arms Act at Police Station Indri, District Karnal.

2. Learned counsel for the petitioner has submitted that the petitioner has been in custody since 04.05.2022 and the investigation is complete and the challan has already been presented and there are 21 witnesses, out of which, only 2 witnesses have been examined and thus, the trial is likely to take time. It is submitted that earlier bail application of the petitioner was dismissed as withdrawn at that stage on 30.11.2022 and since then although sufficient time has elapsed, the trial has not made much progress. It is further submitted that the petitioner has not been named in the present FIR and no injury has been attributed to the petitioner and the

petitioner has been implicated in the present case on account of the fact that he is the owner of the vehicle bearing registration no.UP11T-8849. It is further stated that in the said truck, no cow, live or dead was found and the petitioner had sold the said truck to one Farman son of Iqbal and for the said purpose, he has relied upon the affidavit dated 27.07.2013 (Annexure P-1).

3. Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that the affidavit cannot be taken to be a document of transfer as there is no registered document regarding the same and the said document was not produced during the course of investigation. It is further submitted that from the vehicle owned by the petitioner, life cartridges were recovered. It is further submitted that the petitioner is involved in other cases and is a habitual offender.

4. Learned counsel for the petitioner, in rebuttal, has submitted that the petitioner is on bail in all the said 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 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.”

5. This Court has heard learned counsel for the parties and has perused the paper book.

6. Keeping in view the above said facts and circumstances moreso, the fact that the petitioner has been in custody since 04.05.2022 and the investigation is complete and the challan has already been presented and there are 21 witnesses, out of which, only 2 witnesses have been examined and thus, the trial is likely to take time and also the fact that the petitioner has not been named in the FIR and the gun shot injury has been attributed to the co-accused Monu and as per the case of the petitioner, the vehicle, in which live cartridges were found, has already been sold by the petitioner to one Farman and also in view of law laid down in ***Maulana's*** case, 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.

7. 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.

8. 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.

(VIKAS BAHL)
JUDGE

May 18, 2023

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No