

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

(204)

CRM-M-12045-2023

Date of decision: - 16.03.2023

Jaspal Kumar

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Randeep Singh Waraich, Advocate,
for the petitioner.

Mr. Ferry Sofat, Additional Advocate General, Punjab.

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.95 dated 26.06.2021 (Annexure P-1) under Sections 22/25 of the Narcotic Drugs & Psychotropic Substances Act, 1985, registered at Police Station Dakha, District Ludhiana (Rural), Punjab.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 26.06.2021 and out of total 12 prosecution witnesses, only 6 witnesses have been examined, thus, the trial is likely to take time. It is further submitted that the last bail application filed by the petitioner was withdrawn at that stage on 09.01.2023 and thereafter, Co-ordinate Bench of this Court, vide order dated 24.02.2023 passed in CRM-M-1388-2022 (Annexure P-2), granted

the concession of regular bail to Davinder Singh @ Rinku, who is co-accused of the petitioner and the case of the present petitioner is on parity with the said case.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that the petitioner is involved in one more case, whereas, co-accused Davinder Singh @ Rinku was not involved in any other case.

Learned counsel for the petitioner, in rebuttal, has submitted that the custody of the present petitioner is 1 year, 8 months and 21 days, whereas, the custody of co-accused Davinder Singh @ Rinku was 1 year and 7 months when he was granted the concession of regular bail. It is further submitted 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 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 26.06.2021

and co-accused of the petitioner Davinder Singh @ Rinku, who is similarly placed as the present petitioner, has been granted the concession of regular bail by Co-ordinate Bench of this Court, vide order dated 24.02.2023 passed in CRM-M-1388-2022 (Annexure P-2) and also the fact that out of total 12 prosecution witnesses, only 6 witnesses have been examined, thus, the trial is likely to take time 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.

March 16, 2023
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No