

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-13026-2023

Date of Decision:-10.05.2023

Vikas @ Kashi.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Harish Kumar Bhatti, Advocate for the Petitioner.

Mr. Kanwar Sanjiv Kumar, Assistant Advocate General,
Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition is for the grant of regular bail under Section 439 Cr.PC in case FIR No.169 dated 10.08.2020 under Sections 25, 54, 59 of Arms Act, 1959 and 392 and 34 IPC registered at Police Station Julana, District Jind, Haryana.

The brief facts of the case are that one Satnam Singh son of Nachhatar Singh got recorded his statement to the effect that he was working as a driver of a Scorpio vehicle bearing registration No.PB-01-7622, which had been taken on rent by a company. On 10.08.2020 when he was proceeding from Kaithal to Rohtak alongwith one Vivek who was employed as Engineer in the company and reached near village Kilazafargarh, a white colour vehicle came from behind and parked in front of his vehicle. One boy was sitting on the front side and two boys from the rear seat alighted and came towards the vehicle of the complainant. One of the two boys who was armed with pistol put it on his temple and the other two boys pointed a pistol at Vivek after opening his window. The boy who put the pistol on his (complainant's) temple snatched the keys of the vehicle and after asking him (complainant) and Vivek to get out of the vehicle fled away with Scorpio

vehicle and its articles. Based on the aforementioned complaint, the FIR came to be registered.

The counsel for the petitioner contends that the name of the petitioner is not mentioned in the FIR and he has been falsely implicated. He submits that the investigation in the present case is complete and as many as 23 prosecution witnesses are to be examined out of whom only 11 have been examined so far and the complainant Satnam Singh PW-1 and eye witness Vivek (PW-5) have not supported the case of the prosecution. He thus contends that as the petitioner is in custody since 27.01.2021 and the trial is not likely to be concluded in near future, the petitioner deserves the concession of bail more so when his co-accused Harinder @ Harsh has been granted the similar concession by this Court vide order dated 20.05.2022.

The Counsel for the State on the other hand contends that the co-accused of the petitioner came to be arrested in FIR No.188. On 11.01.2021, Navdeep @ Chhota, Vikas, Harinder @ Harsh (granted bail vide order dated 20.05.2022) and Karan came to be arrested in the present case. Thereafter on 18.01.2021 Sudhir and Karan were arrested. On 19.1.2021 one Rajbir accused was arrested and subsequently thereto the petitioner came to be arrested on 27.01.2021. Various recoveries had been effected from different accused including the petitioner. He was also an accused in as many as 20 other FIRs and, therefore, the allegations levelled in the present case coupled with the criminal antecedents of the petitioner did not entitle him to the grant of bail. He however, fairly concedes that two eye witnesses of the occurrence namely PW-1 Satnam Singh and PW-5 Vivek have not supported the prosecution case consequent to which Harinder @ Harsh has been granted the concession of bail.

I have heard counsel for both the parties at length.

The petitioner is in custody since 27.01.2021 and 11 prosecution witnesses have already been examined. PW-1 Satnam Singh, complainant and PW-5 Vivek both eye witnesses of the purported occurrence have not supported the case of the prosecution and have stated that the accused were not amongst those who had committed the robbery. The co-accused of the petitioner namely Harinder @ Harsh has been granted the concession of bail vide order dated 20.05.2022 (Annexure P-2). Undoubtedly, the petitioner is an accused in multiple FIRs. However, it is equally true that there is little likelihood of the conviction of the petitioner in

the instant case though it would be a matter of final adjudication during the course of trial as to whether there is other evidence available on record which is sufficient to convict the petitioner.

The Hon'ble Supreme Court in ***Maulana Mohd. Amir Rashadi Vs. State of U.P. & Anr. 2012(1) R.C.R.(Criminal) 586*** has held as under:-

“ It is not in dispute and highlighted that the second respondent is a sitting Member of Parliament facing several criminal cases. It is also not in dispute that most of the cases ended in acquittal for want of proper witnesses or pending trial. 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 in ***Rajender Singh V/s State of Haryana CRM-40431-2021 in CRA-D-1640-DB-2014 Decided on 19.01.2022*** held as under:-

“ We are quite conscious of the fact that the applicant in the present case is a prior convict, and therefore, his case would be an exception to the ratio of the law laid down in Daler Singh’s case (supra). However, on having examined the factual matrix in the case of the applicant, we are inclined to suspend the rest of the sentence of the applicant for the following reasons:-

*(i) The applicant has undergone approximately 09 years of his substantive sentence of 12 years i.e. 03 years more than the prescribed period under **Daler Singh’s case (supra)**.*

(ii) The applicant was convicted in FIR No. 244 dated 10.05.2006 in which he was sentenced for 02 years, and he has undergone the same. In the second conviction in FIR No. 84 dated 21.07.2006, the applicant was sentenced for 10 years and he has been granted bail vide order dated 03.12.2009. So, as on date, the

applicant is in custody only in the present case.

(iii) If pendency of other FIRs is the only consideration for denial of bail, then whenever a convict/under- trial applies for bail, the same would be denied simply looking at the pendency of another case. While, it is true that the grant of bail/suspension of sentence would have to be looked at in the larger context of the criminal antecedents of the accused/convict, it is equally true that the appreciation of evidence in the trial/appeal would have to be with reference to the evidence in that case alone and not with respect to the evidence in the other pending cases against him. Therefore, strict adherence to the rule of denial of bail on account of pendency of other cases/convictions would put the accused in vicious loop of never being granted bail because the bail in each case would be denied due to the pendency of another case/conviction. This would clearly be violative of the right to speedy trial/expeditious disposal of an appeal as recognized under Article 21 of the Constitution of India, as the accused would never be granted bail in any case leading to indefinite periods of incarceration assuming of course that the appeal is not heard within a reasonable period of time.

(iv) The appeal, in the present case, which stands admitted on 14.11.2014, is not likely to be heard in the near future due to the COVID-19 pandemic, which does not show sign of abating.

In view of the aforesaid discussion, we are of the view that the applicant ought to be released on bail having undergone 08 years 11 months and 19 days of his substantive sentence of 12 years.”

Keeping in view the above mentioned facts, more particularly the period of incarceration undergone by the petitioner and the fact that the trial is not likely to be concluded in the near future, the present application is allowed and the petitioner-**Vikas @ Kashi** son of Sh. Nar Singh is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to

the satisfaction of learned CJM/Duty Magistrate, concerned.

The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing that he is not involved in any other crime other than the present case.

If the petitioner indulges in similar offence for which he is currently charged, the State would be at liberty to move an application for cancellation of bail.

Petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

May 10, 2023
Vinay

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