

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

CRM-M-14262-2023

Date of decision : 24.03.2023

Gaurav Mutneja

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Rhythem Bajaj, Advocate for the petitioner.

Mr.Ferry Sofat, Addl.A.G. 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, 323, 341, 34 of Indian Penal Code, 1860 and Section 25 of the Arms Act (Sections 379-B, 325 IPC added later on) registered at Police Station City-I, 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 It is further submitted that earlier bail application filed by the petitioner was dismissed as withdrawn at that stage on 05.12.2022 and thereafter, the complainant-Harpal Singh, the alleged eye-witness-Vikram and one Doctor, who are the material witnesses, have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 submitted that the co-accused of the petitioner namely Raja has already been granted the concession of regular bail by this Court vide order dated 14.03.2023 passed in CRM-M-11637-2023 and the case of the petitioner is on better footing than said Raja inasmuch as the petitioner has not been attributed with snatching of gold ring which has been attributed to said Raja.

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 persons, 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 co-accused of the petitioner namely Raja has already been granted the concession of regular bail by this Court vide order dated 14.03.2023 passed in CRM-M-11637-2023 and the case of the petitioner is on a better footing than said Raja inasmuch as there is no allegation of snatching the gold ring against the present petitioner, 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.

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.

(VIKAS BAHL)
JUDGE

March 24, 2023.
Davinder Kumar

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