

CRM-M-19179 of 2023

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2023:PHHC:059627

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANIDGARH

214

CRM-M-19179 of 2023  
Date of Decision: 26.04.2023

Sunny Kumar

..... Petitioner

Versus

State of Punjab

..... Respondent

**CORAM: HON'BLE MR. JUSTICE VIKAS BAHL**

Present: Mr. Satnam Singh Thakur, Advocate and  
Mr. Vishal Kaul, Advocate  
for the petitioner.

Mr. Rohit Ahuja, DAG, Punjab.

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**VIKAS BAHL, J (ORAL)**

This is the second petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.188 dated 19.06.2022, under Sections 379-B(2), 411 and 34 IPC, registered at Police Station Sahnewal, District Ludhiana.

Learned counsel for the petitioner has submitted that the petitioner is in custody since 24.06.2022 and out of 12 witnesses, only one has been examined and thus, trial is likely to take time. It is further submitted that the earlier bail application of the petitioner was dismissed as withdrawn at that stage on 21.12.2022 and even thereafter, the complainant has been examined as PW-1 on 20.03.2023. It is submitted that as per the statement of the said PW-1, it has been stated by him that no test identification parade was conducted by the police in the present FIR and the identity of the accused was disclosed to him by the police and that he has

admitted that there was a delay of 02 days in registration of the FIR and that he never went to any Civil Hospital for MLR and the phone which has been recovered is not of the complainant. It is submitted that the petitioner was not named in the FIR and since the complainant has already been examined and the recovery has also been effected and the investigation is complete, no useful purpose would be served by keeping the petitioner in further incarceration. It is submitted that without admitting his liability, the petitioner is ready to deposit an amount of Rs.10,000/- with the trial Court within a period of three weeks from today and he has no objection in case the said amount is paid to the complainant.

Learned State counsel, on the other hand, has opposed the present petition for grant of regular bail and has submitted that the petitioner along with other co-accused had snatched the wallet, mobile phone as well as motor-cycle of the complainant and the motor-cycle of the complainant has been recovered from the present petitioner and the co-accused. It is further submitted that recovery of 14 mobile phones had also been effected from the petitioner and the co-accused. He has further submitted that the petitioner is involved in one more case. The other facts, have, however, not been disputed.

Learned counsel for the petitioner, in rebuttal, has submitted that the said FIR is subsequent to the present FIR and that the petitioner is on bail in the same 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 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.”*

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

Keeping in view the above said facts and circumstances moreso, the fact that the petitioner has been in custody since 24.06.2022 and there are 12 witnesses and only one witness has been examined and thus, the trial is likely to take time and also the fact that the star witness of the prosecution, who is the complainant, has already been examined as PW-1 and in his cross-examination, he has stated that no test identification parade was conducted by the police and the identity of the accused was disclosed to him by the police and also keeping in view the law laid down in ***Maulana'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.

The petitioner is directed to deposit an amount of Rs.10,000/- in the trial Court within a period of three weeks from today and the trial Court is directed to release the said amount to the complainant. The said amount would not be deemed to be an admission of guilt by the petitioner. It is made clear that in case the petitioner does not deposit the said amount within the stipulated period, then the present bail petition would be deemed to have been dismissed.

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.

26.04.2023

*D.Bansal*

(VIKAS BAHL)  
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No