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

CRM-M-21414-2023

Date of decision : 04.05.2023

Sarpreet Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Amardeep Singh, Advocate for the petitioner.

Mr. Ferry Sofat, Addl. A.G. Punjab.

VIKAS BAHL, J. (ORAL)

1. This is the third petition filed under Section 439 of Cr.P.C. for grant of regular bail to the petitioner in FIR No.91 dated 13.06.2019 registered under Sections 307, 382, 511, 34 of the Indian Penal Code, 1860 and Sections 25 and 27 of the Arms Act, 1959 at Police Station Sadar Tarn Taran, District Tarn Taran.

2. Learned counsel for the petitioner has submitted that the petitioner is in custody since 31.01.2022 and there are 9 prosecution witnesses, out of which, none have been examined and thus, the conclusion of trial is likely to take time. It is further submitted that the first bail application of the petitioner was dismissed as withdrawn on 23.12.2022 at that stage and second bail application was dismissed as withdrawn on 21.04.2023 with liberty to file a fresh petition after rectifying the mistakes which had been made in the said petition and thus, in effect, the present petition is the second regular bail filed by the petitioner. It is contended that after 23.12.2022, no witness has been

examined and the injured-Dilbag Singh has gone abroad which is further going to delay the trial. It is further contended that the petitioner was not named in the FIR and has not been attributed any injury and the gun shot injuries have been attributed to the co-accused Gursewak Singh. It is argued that no recovery has been effected from the present petitioner and the present petitioner has been falsely implicated inasmuch as in the FIR, it had been stated that two young men with covered faces had arrived at the place of incident and it is only after a period of 2 ½ years that the petitioner has been named as an accused in the present case.

3. 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 present petitioner is involved in two other cases and is a habitual offender.

4. Learned counsel for the petitioner, in rebuttal to the said argument, 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 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 abovesaid facts and circumstances, more so, the facts that the petitioner is in custody since 31.01.2022 and investigation is complete and challan has been presented and out of nine prosecution witnesses, none have been examined and thus, the conclusion of trial is likely to take time and also the fact that the petitioner has not been named in the FIR and has not been attributed any injury to injured-Dilbag Singh and the gunshot injuries suffered by Dilbag Singh have been attributed to co-accused Gursewak Singh and no recovery has been effected from the present petitioner and also the fact that the injured-Dilbag Singh has gone abroad which would further delay the trial and also in view of 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 regular bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate, 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 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 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.

04.05.2023*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:- Yes/No****Whether reportable:- Yes/No**