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

CRM-M-28305-2023

Date of decision: 03.07.2023

Kuldeep Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

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

Mr. Sanjeev Soni, Addl. A.G. Punjab.

VIKAS BAHL, J. (ORAL)

1. This is the second petition filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.55 dated 13.04.2022 registered under Sections 379-B, 34 of Indian Penal Code, 1860 (Section 411 of IPC has been added later on) at Police Station Jodhewal, Ludhiana.

2. Learned counsel for the petitioner has submitted that the petitioner is in custody since 13.04.2022 and investigation is complete and challan has been presented and there are 9 prosecution witnesses, out of which, none have been examined as yet and thus, the conclusion of trial is likely to take time. It is further submitted that earlier bail application of the petitioner was dismissed as withdrawn at that stage on 02.08.2022 and thereafter, sufficient time has lapsed and still the trial has not made any

progress. It is contended that in the present case, recovery has already been effected and no useful purpose would be served by keeping the petitioner in further incarceration.

3. On the other hand, learned State Counsel has opposed the present petition for grant of regular bail to the petitioner and has submitted on instructions from Gurpreet Singh that the petitioner is involved in eight other cases and thus, does not deserve the concession of regular bail.

4. Learned counsel for the petitioner, in rebuttal, has submitted that out of eight abovesaid cases, the petitioner has been acquitted in six cases and in other two cases, he has been released on probation 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.”

5. Keeping in view the abovesaid facts and circumstances, more so the facts that in the present case, the petitioner is in custody since 13.04.2022 and investigation is complete and challan has been presented and out of 9 prosecution witnesses, none have been examined as yet and

thus, the conclusion of trial is likely to take time and the fact that the recovery has already been effected and also in view of ***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.

6. 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.

7. 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.

03.07.2023*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:- Yes/No****Whether reportable:- Yes/No**