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

CRM-M-32821-2023 (O&M)

Date of decision: 31.08.2023

Jagat Narayan alias Kaka Kunda

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Varun Sharma, Advocate,
for the petitioner.

Mr. Rohit Bansal, Sr. DAG, Punjab.

VIKAS BAHL, J. (ORAL)

This is the third bail application under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No. 236 dated 28.10.2021, registered under Sections 380, 427, 457, 461 and 120-B of IPC, at Police Station Division No. 8, Jalandhar.

2. Learned counsel for the petitioner has submitted that the petitioner is in custody since 16.11.2021 and the investigation is complete and challan has been presented and there are 15 prosecution witnesses, out of whom, four have been examined and, thus, the trial is likely to take time. It is submitted that the last bail application of the petitioner was dismissed on 21.10.2022 with liberty to file a fresh petition after annexing all the relevant documents and thus, present petition in effect is the second bail application of the petitioner. It is submitted that the first bail application of the petitioner was dismissed as withdrawn at that stage on 21.01.2022 and

since then sufficient time has elapsed and yet the trial has not progressed. It is submitted that recovery of Rs. 35,000/- has already been effected from the present petitioner and the co-accused Surjit Singh @ Sunny Kalsi as well as Gopal Krishan @ Vipin have already been granted the concession of regular bail by the trial Court vide order dated 08.03.2022 and 01.04.2022 (Annexures P-6 & P-7 respectively) and the case of the petitioner is on the same footing as that of the said accused. It is further submitted that no purpose would be served by keeping the petitioner behind the bars and has thus prayed for the grant of regular bail.

3. Learned State counsel, on the other hand, has submitted that the petitioner is involved in several other cases and is a habitual offender.

4. Learned counsel for the petitioner, in rebuttal, 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 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. Keeping in view the aforesaid facts and circumstances of the

present case more so the fact that the petitioner is in custody since 16.11.2021; investigation is complete; challan has been presented and there are total 15 prosecution witnesses, out of which only four have been examined and, thus, the trial is likely to take time and also the fact that similarly placed co-accused of the petitioner namely Surjit Singh and Gopal Krishan have been granted the concession of regular bail by the trial Court vide orders dated 08.03.2022 and 01.04.2022 (Annexures P-6 & P-7 respectively) and also the fact that recovery of Rs. 35,000/- has already been effected from the petitioner and, thus, no useful purpose would be served by keeping the petitioner behind the bar and also keeping in view the 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 bail on his furnishing bail / surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate and subject to his not being required in any other case. The petitioner shall also abide by the following conditions:-

- a). The petitioner will not tamper with the evidence during the trial.
- b). The petitioner will not pressurize / intimidate the prosecution witness(s)
- c). The petitioner will appear before the trial Court on the date fixed, unless personal presence is exempted.
- d). The petitioner shall not commit an offence similar to the offence of which he is accused of, or for commission of which he is suspected.
- e). The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

In case of breach of any of the above conditions, the

prosecution shall be at liberty to move an application for cancellation of bail before this Court.

7. Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

31.08.2023

Satyawan

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No

(VIKAS BAHL)

JUDGE