

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-35691-2023

Date of decision : 31.07.2023

Manpreet Singh @ Mani

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.S.P.S.Khaira, Advocate
for the petitioner.

Ms.Anju Sharma Kaushik, DAG, Punjab.

VIKAS BAHL, J.(ORAL)

1. This is the second petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.108 dated 12.09.2022 registered under Sections 307, 323 IPC at Police Station Shimlapuri, District Ludhiana.

2. Learned counsel for the petitioner has submitted that the petitioner has been in custody since 24.11.2022 and the investigation is complete and the challan has already been presented and there are 11 witnesses, out of which, none have been examined and thus, the 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 It is further submitted that earlier bail application of the petitioner was dismissed as withdrawn at that stage on 16.12.2022 and since then sufficient time has elapsed and no progress has been made in the trial thus, entitling the present petitioner to file second regular bail application. It is stated that in the present case, there was no enmity between the petitioner and the injured and even as per the FIR, there was a sudden fight. It is

further stated that statement of the complainant was recorded on 24.09.2022 (Annexure P-4) and as per the said statement, the injured has stated that he has been discharged from the hospital after treatment.

3. Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that serious injury on the head has been caused by the petitioner with a bat and further submitted that the petitioner is involved in two more cases and is a habitual offender.

4. Learned counsel for the petitioner, in rebuttal, has submitted that he is on bail in said two cases 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 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 above said facts and circumstances, moreso, the fact that the petitioner has been in custody since 24.11.2022 and the investigation is complete and the challan has already been presented and there are 11 witnesses, out of which, none have been examined as yet and thus, the trial is likely to take time and also the fact that there is no previous

sudden fight and also in view of 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.

7. 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.

8. 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.

(VIKAS BAHL)
JUDGE

July 31, 2023
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No