

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(203)

CRM-M-54279-2022

Date of decision: - 17.02.2023

Gurjinder Singh

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Rajvir Singh, Advocate,
for the petitioner.

Mr. Ferry Sofat, Additional Advocate General, Punjab.

VIKAS BAHL, J. (ORAL)

This is the second petition under Section 439 Cr.P.C. to grant regular bail to the petitioner in FIR No.13 dated 12.02.2019, registered under Sections 307, 332, 353, 186, 506, 148 and 149 IPC, at Police Station City Morinda, District Rupnagar.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 21.07.2022 and out of total 17 prosecution witnesses, only 5 witnesses have been examined, thus, the trial is likely to take time. It is further submitted that the earlier bail application filed by the petitioner was withdrawn at that stage on 13.09.2022 and eve thereafter, sufficient time has elapsed. It is also submitted that the petitioner has been attributed one injury suffered by the complainant as per the FIR and the said injury has been declared to be

simple in nature as apparent from the evidence of PW-3 Dr. Sanjay Kumar, Medical Officer, Civil Hospital Morinda. It is stated that a panchayatnama (Annexure P-2) prima facie also shows that the petitioner is innocent.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that the petitioner along with other co-accused had attacked the police party while the police officials were discharging their official duties. It is further submitted that three other cases are pending against the petitioner and thus, the petitioner is a habitual offender.

Learned counsel for the petitioner, in rebuttal, has submitted that the petitioner is on bail in the said three 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.”

Keeping in view the above-said facts and circumstances, more so, the fact that the petitioner has been in custody since 21.07.2022

and out of total 17 prosecution witnesses, only 5 witnesses have been examined, thus, the trial is likely to take time and also the fact that the petitioner has been attributed only one injury which has been declared to be simple in nature and also in view of 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 him not being required in any other case.

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.

Pending application, if any, stands disposed of in view of the above-said order.

February 17, 2023
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No