

CRM-M-55731-2022

DECIDED ON: 25.01.2023

NAWAB SINGH

.....PETITIONER

VERSUS

STATE OF HARYANA

....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Satnam Singh Gill, Advocate for the petitioner.

Mr. Ashok Kumar Sehrawat, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

The petitioner has filed petition under Section 439 Cr.P.C., seeking regular bail in case FIR No.394, dated 31.05.2022, under Sections 379-A, 201 and 120-B IPC registered at Police Station Krishna Gate, Thanesar, District Kurukshetra.

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case and no recovery has been effected from the petitioner.

Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. According to which, the petitioner has undergone 6 months and 21 days of actual custody, so far and is also involved in two other cases of similar nature.

Learned State counsel, on the basis of pervi report, submits that out of 15 witnesses, only 3 witnesses have been examined, so far.

With regard to the fact that the petitioner is involved in two other case of similar nature, learned counsel for the petitioner has relied upon the judgment of the Apex Court rendered in the case of **“Prabhakar Tewari vs. State of U.P. & another;2020 (1) RCR (Criminal) 831**, wherein it has been held as under:-

“The accused has several criminal cases pending against him and has been named in the statement forming the basis of the FIR on the date of occurrence itself. Two individuals, Rahul Tiwari and Narendra Dev Upadhyay, whose statements have been recorded under Section 161 of the 1973 Code also refer to involvement of the accused Vikram Singh.

6. In the case of **Mahipal v. Rajesh Kumar @ Polia & Anr. (Criminal Appeal No.1843 of 2019) decided on 5th December, 2019**, a coordinate Bench of this Court has discussed the scope of jurisdiction of the appellate Court in setting aside an order of granting bail. The two key factors for interfering with such an order are non-application of mind on the part of the Court granting bail or the opinion of the Court in granting bail is not borne out from a prima facie view of the evidence on record. In the case of **Maulana Mohammed Amir Rashadi v. State of Uttar Pradesh and Another [(2012) 2 SCC 382 : 2012(1) RCR (Criminal) 586]**, a two Judge Bench of this Court declined to interfere with an order of the High Court granting bail to an accused having considered the factual features of that case.

7. On considering the submissions of the learned counsel for the parties. Having regard to the circumstances of this case, in our opinion, there has been no wrong or improper exercise of discretion on the part of the High Court in granting bail to the accused. The factors outlined in the case of Mahipal (supra) for testing the legality of an order granting bail are absent in the order impugned. The materials available do not justify arriving at the conclusion that the order impugned suffers from non-application of mind or the reason for granting bail is not borne out from a prima-facie view of the evidence on record. The offence alleged no doubt is grave and serious and there are several criminal cases pending against the accused. These factors by themselves cannot be the basis for refusal of prayer for bail. The High Court has exercised its discretion in granting bail to the accused Vikram Singh upon considering relevant materials. No ex-facie error in the order has been shown by the appellant which would establish exercise of such discretion to be improper. We accordingly sustain the order of the High Court granting bail. This appeal is dismissed.”

Keeping in view the totality of the facts and circumstances and the fact that the motorcycle has already been recovered from the petitioner and that no further custodial interrogation is required, and since the conclusion of the trial is likely to take time, no fruitful purpose would be served by keeping the petitioner behind the bars. Hence, this petition is allowed and the petitioner is directed to be released on regular bail on furnishing bail and surety bonds to the satisfaction of the trial Court/Illaq Magistrate, concerned.

(SANDEEP MOUDGIL)
JUDGE

25.01.2023
Poonam Negi/sham

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