

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
(215)

1. CRM-M-59355-2022
Bhupinder SinghPetitioner
Versus
State of PunjabRespondent

2. CRM-M-59610-2022
Kamaljeet Singh @ LadaPetitioner
Versus
State of PunjabRespondent

Date of decision: - 06.02.2023

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Ritesh Pandey, Advocate for the petitioner.
(In CRM-M-59355-2022).

Mr. M.S. Saini, Advocate for the petitioner.
(In CRM-M-59610-2022).

Mr. Rohit Ahuja, DAG, Punjab.

VIKAS BAHL, J. (ORAL)

This order will dispose of two petitions. CRM-M-59355-2022 is filed by petitioner Bhupinder Singh, which is a third petition for grant of regular bail, whereas, CRM-M-59355-2022 is filed by petitioner Kamaljeet Singh @ Lada, which is the second petition for grant of regular bail.

Both the said petitions have been filed under Section 439

Cr.P.C. for the grant of regular bail to the petitioners in FIR No.192 dated 10.08.2021, registered under Sections 379-B and 34 IPC, at Police Station Tanda District Hoshiarpur.

Learned counsel for both the petitioners have jointly submitted that the petitioners have been in custody since 29.08.2021 and out of 12 prosecution witnesses, only one witness i.e., the complainant has been fully examined, whereas, with respect to another witness, only his examination-in-chief has been recorded, thus, the trial is likely to take time. It is further submitted that the last bail application of the petitioner Bhupinder Singh was dismissed as withdrawn on 25.05.2022 on the aspect that the complainant had not been examined at that point in time. Learned counsel appearing on behalf of petitioner Bhupinder Singh has submitted that subsequent to the passing of the said order, the complainant Navneet Kaur has been examined. Learned counsel appearing on behalf of petitioner Kamaljeet Singh @ Lada has submitted that the earlier bail application of the petitioner Kamaljeet Singh @ Lada was withdrawn on 04.08.2022 at that stage. It is submitted by learned counsels for both the petitioners that subsequent to the passing of said orders, substantial period has elapsed, yet the trial has not been concluded. It is also submitted that the petitioners have not been named in the FIR and the recovery has already been effected from both the petitioners and thus, no useful purpose would be served by keeping them in further incarceration.

Learned State counsel on the other hand has opposed the

present petitions for regular bail and has submitted that both the petitioners are involved in other cases, thus, they are habitual offenders. It is further submitted that in the present case, the recovery of the purse of the complainant as well as one gold chain, one pair of gold tops, one gold ring, a silver chain, four pairs of ear rings, Adhaar Card, Pan Card and ATM card of complainant Navneet Kaur etc., has been effected from the present petitioners. It is also submitted that the complainant has already been examined and she has identified the petitioners as the persons who had committed the offence.

Learned counsel for the petitioners, in rebuttal, have submitted that both the petitioners are on bail in the said other cases and have 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 both the petitioners have been in custody since

29.08.2021 and out of total 12 prosecution witnesses, only one witness has been fully examined i.e., the complainant and another witness has been only partially examined, thus, the trial is likely to take time and also in view of the fact that the recovery had already been effected from both the petitioners, as well as in view of the law laid down in **Maulana Mohd. Amir Rashadi's case (supra)**, the present petitions are allowed and both the petitioners are ordered to be released on bail on their furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to them not being required in any other case.

However, 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 cases which are only for the purpose of adjudicating the present bail petitions.

It is made clear that in case, any act is done by the petitioners 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 petitioners.

All the pending miscellaneous application(s), if any, stand disposed of in view of the abovesaid order.

February 06, 2023
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No