

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(218)

CRM-M-59538-2022 (O&M)

Date of decision: - 01.02.2023

Jaspri Singh @ Jassi

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Karandeep S. Sidhu, Advocate, for the petitioner.

Mr. Rohit Ahuja, DAG, Punjab.

VIKAS BAHL, J. (ORAL)

CRM-4205-2023

Present application has been filed under Section 482 of Code of Criminal Procedure for placing on record the statements of PW-4 Sohan Singh @ Daljit Singh and PW-5 Gurdeep Singh as well as copies of zimni orders as Annexures P-10 to P-12.

In view of the averments made in the application, the same is allowed. Statements of PW-4 Sohan Singh @ Daljit Singh (Annexure P-10) and PW-5 Gurdeep Singh (Annexure P-11) as well as copies of zimni orders (Annexure P-12) are taken on record, subject to all just exceptions.

CRM-M-59538-2022

This is the third petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.70 dated 02.08.2021 registered

under Sections 307, 34 IPC and Section 25 of the Arms Act, 1959 (Sections 120-B, 212, 216 IPC and Sections 54 & 59 of the Arms Act were added later on) at Police Station City Bajakhana, Faridkot.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 12.08.2021 and there are total 21 prosecution witnesses, out of which, 5 have been examined and the trial is likely to take time. It is further submitted that the last bail application filed by the petitioner was withdrawn on 25.05.2022 at that stage keeping in view the fact that the complainant/injured had not been examined. It is further submitted that now the complainant as well as the eye witness have been examined as PW-4 and PW-5 and both the said witnesses had stated that the present petitioner was not the person who had fired upon the complainant and that they had seen the petitioner for the first time in the video conference and the said witnesses have been declared hostile. It is stated that the said witnesses are the star witnesses as per the prosecution's case and since the complainant has not supported the case of the prosecution, thus, the petitioner deserves the concession of regular bail.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that the prosecution case is based on the statements of the complainant and eye witness. It is further submitted that the petitioner is involved in two more cases.

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.”

This Court has heard learned counsel for the parties and has gone through the paper-book.

Keeping in view the above-said facts and circumstances as well as the law laid down in **Maulana Mohd. Amir Rashadi's case (supra)**, more so, the facts that the petitioner has been in custody since 12.08.2021 and there are total 21 prosecution witnesses, out of which, 5 have been examined and the trial is likely to take time and the star witnesses in the present case i.e., PW-4 Sohan Singh @ Daljit Singh and PW-5 Gurdeep Singh have stated that they had seen the present petitioner for the first time through video conferencing and the petitioner was not the person, who had fired the gun shot upon the complainant and both the said witnesses have not supported the case of the prosecution and have been declared hostile, the present petition is allowed and the petitioner is directed to be released on regular 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.

February 01, 2023
naresh.k

(VIKAS BAHL)
JUDGE

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