

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(205)

CRM-M-60161-2022

Date of decision: - 05.01.2023

Akashdeep alias Shintu

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Munish Gulati, Advocate, for the petitioner.

Mr. Alankar Narula, AAG, Punjab.

VIKAS BAHL, J. (ORAL)

This is the second petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.84 dated 18.08.2021, registered under Section 379-B IPC, later on Section 379-B IPC has been deleted and Sections 395, 397, 120-B, 427, 201, 506 IPC & 25/54/59 of the Arms Act have been added, at Police Station Cantt. Ferozepur, District Ferozepur.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 26.09.2021 (more than 1 year and 3 months) and his earlier regular bail application was dismissed as withdrawn at that stage on 06.07.2022 and subsequent to the said order, the complainant has been examined as PW1 and in his cross examination, he has specifically stated that the FIR was registered against unknown persons and that he was unable to recognize or identify the

persons/accused present in the Court on the said date or present through VC and that it was correct that at the time of occurrence, the accused persons had muffled faces and that he was never called to the police station for the purpose of identification of the accused persons. It is further contended that the said witness is the star witness who has already been examined and has been unable to identify the present petitioner and the other accused persons. It is argued that there are total 26 prosecution witnesses, out of whom, only one witness has been examined as yet and thus, the conclusion of trial is likely to take time and that the petitioner is not involved in any other case and no recovery has been effected from him. It is further submitted that co-accused of the petitioner, namely, Gurjit Singh alias Guri alias Sucha has already been granted the concession of regular bail by this Court vide order dated 02.12.2022 in CRM-M-55044-2022 and the case of the petitioner is on a similar footing as that of said co-accused Gurjit Singh alias Guri alias Sucha.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that the petitioner is involved in one more case.

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

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 26.09.2021 (more than 1 year and 3 months) and the star witness in the present case i.e. Kishore Kumar has been examined and in his cross examination, he has specifically stated that the FIR was registered against unknown persons and that it was correct that he was unable to recognize or identify the persons/accused present in the Court or present through VC on that date and that at the time of occurrence, the accused persons had muffled faces and the police had never called him for the purpose of identification of the accused persons and the fact that that in the present case, out of 26 witnesses, only one witness has been examined and, thus, the conclusion of trial is likely to take time and co-accused of the petitioner, namely, Gurjit Singh alias Guri alias Sucha has already been granted the concession of regular bail by this Court vide order dated 02.12.2022 in CRM-M-55044-2022 and the case of the petitioner is on a

similar footing as that of said co-accused Gurjit Singh alias Guri alias Sucha, 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.

January 05, 2023
naresh.k

(VIKAS BAHL)
JUDGE

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