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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-10128-2024
Date of decision: 09.04.2024

Gulshan Kumar @ Sheru

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Dinesh Trehan, Advocate for the petitioner
(Through Video Conferencing)

Ms. Akshita Chauhan, DAG, Punjab.

VIKAS BAHL, J. (ORAL)

1. This is a first petition filed under Section 439 of Cr.P.C. for grant of regular bail to the petitioner in FIR No.223 dated 25.10.2021 registered under Sections 307/294/506/148/149 of the Indian Penal Code, 1860 and Section 25 of the Arms Act (Section 54/59 of the Arms Act has been added later on) at Police Station City Jagraon, District Ludhiana Rural.
2. Learned counsel for the petitioner has submitted that the petitioner is in custody since 19.06.2023 and out of 10 prosecution witnesses, none have been examined and thus, the conclusion of trial is likely to take time. It is further submitted that in the present case, no person has been injured and even as per the allegations levelled in the FIR, two groups had clashed with each other.

3. Learned State Counsel, on the other hand, has opposed the present petition for grant of regular bail to the petitioner and has submitted that the petitioner is involved in several other cases and is also not on bail in a large number of cases. However, other facts have not been disputed.

4. Learned counsel for the petitioner in rebuttal to the said argument 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 and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in another case. 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.”

5. Keeping in view the abovesaid facts and circumstances more so the fact that the petitioner is in custody since 19.06.2023 and there are 10 prosecution witnesses, out of which, none have been examined as yet and thus, the conclusion of trial is likely to take time and also the fact that the present case is a case of no injury and the fact that even as per the FIR, a clash had taken place between the two groups and also keeping in view 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 regular bail on his furnishing bail/surety bonds to the satisfaction of the concerned

trial Court/Duty Magistrate, subject to him not being required in any other case.

6. However, it is made clear that in case, any act is done by the petitioner to threaten 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.

7. Nothing stated above shall be construed as an 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.

8. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

09.04.2024
Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No