

Before Vikas Bahl, J.

HARSIMRAN SINGH @ SIMMU—*Petitioner*

versus

STATE OF PUNJAB—*Respondent*

CRM-M No.52741 of 2021

February 04, 2022

Code of Criminal Procedure, 1973—S.439—Bail application cannot be rejected solely on the ground that the accused/petitioner is involved in other several cases and a habitual criminal—Bail allowed—Case relied Molana Mohd. Amir Rashadi's 2012(2) SCC 382.

Held that, keeping in view the above said facts and circumstances as well as the law laid down by the Hon'ble Supreme Court in Maulana Mohd. Amir Rashadi's case (supra), the present petition for regular bail is allowed and the petitioner is ordered to be released on 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

(Para 8)

Anmol Partap Singh Mann, Advocate
for the petitioner.

Karanbir Singh, AAG, Punjab.

VIKAS BAHL, J.(oral)

(1) This is a first petition under Section 439 Cr.P. C. for grant of regular bail to the petitioner pending trial in FIR no.28 dated 11.03.2020 registered under Sections 307, 34 IPC and Sections 25, 27 of the Arms Act, 1959 (Section 201 IPC added later on) at Police Station Phase-8, District S.A.S. Nagar (Mohali).

(2) The FIR in the present case was registered on the statement of one Kamalpreet Singh who had stated that he had gone to deliver milk in Phase 9, 10 and 11 and when he had just delivered the milk in house no.606,Phase 9, Mohali, three unknown assailants/ clean shaven persons were standing in front of the gate and the present petitioner was also present at the spot and he had a pistol in his hand and the present petitioner fired his pistol, which hit the right thigh of the complainant and the person who was

(3) having a *gandasi* in hand started hitting the complainant on account of which, the injury was inflicted on his little finger and the finger next to it of the right hand and after that he raised hue and cry which resulted in all the assailants running away.

(4) Learned counsel for the petitioner has submitted that the petitioner is young boy of 24 years of age and is a graduate and further pursuing a degree in M.A. in English from the Panjab University, Chandigarh. It is further submitted that the complainant Kamalpreet Singh has been examined in the present case as PW-1 and in his statement he had stated that he does not identify the present petitioner who was present in the Court on that day and had further stated that his statement was never recorded by the police and his signatures were taken on some document which was never read over to him. It is further submitted that PW-1 Kamalpreet Singh as well as PW-2 Ravinder Singh have not supported the case of the prosecution. It is further submitted that the petitioner has been in custody since 04.05.2020 and out of 20 prosecution witnesses, only 4 witnesses have been examined and the trial is likely to take time moreso, in view of the present pandemic.

(5) Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that the petitioner in addition to the present FIR is also involved in three more cases.

(6) Learned counsel for the petitioner, in rebuttal, has submitted that the petitioner has already been granted bail in the said three cases and has relied upon the judgment of Hon'ble Supreme Court in *Maulana Mohd. Amir Rashadi* versus *State of U.P. and another*¹ 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.”

¹ 2012 (2) SCC 382

(7) This Court has heard learned counsel for the parties and has perused the record.

(8) The FIR has been registered on the statement of Kamalpreet Singh. It is not in dispute that said Kamalpreet Singh has been examined as PW-1 and as per his statement, which has been annexed as Annexure P-2 along with the present petition, he has not identified the accused present in the Court and has further stated that he never got any statement recorded before the police and his signatures was taken on some papers without the same having been read over to him. Said PW-1 has thus, not supported the case of the prosecution. Even PW-2 Ravinder Singh, whose statement has been annexed as Annexure P-3 with the petition, has not supported the case of the prosecution and has specifically stated that he had only heard a rumour regarding the alleged incident. It is apparent that the star witnesses in the present case have not supported the case of the prosecution. The petitioner is stated to be in custody since 04.05.2020 and there are as many as 20 prosecution witnesses, out of which, only 4 witnesses have been examined and thus, the trial is likely to take time moreso, in view of the present pandemic.

(9) Keeping in view the above said facts and circumstances as well as the law laid down by the Hon'ble Supreme Court in *Maulana Mohd.Amir Rashadi's* case (supra), the present petition for regular bail is allowed and the petitioner is ordered to be released on 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.

(10) 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.

Rajiv Vij