

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-12117-2023
DECIDED ON: 31.05.2023**

KALU RAM

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Ms. Shaweta Sanghi, Advocate for
Mr. Aditya Sanghi, Advocate for the petitioner.

Mr. G.S. Dhillon, AAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court under Section 439 Cr.P.C., has been invoked for the grant of regular bail to the petitioner in FIR No. 16, dated 07.02.2021, under Section 302 of IPC, 1860, registered at Police Station Odhan, District Sirsa, Haryana.

2. Learned counsel for the petitioner contends that its a case of circumstantial and the petitioner has already spent more than two years in custody without having incriminating material so far either in the challan or during the course of trial. Even the witnesses i.e., real brother of the deceased and other acquainted persons namely Sohan Lal and Arjun Singh respectively are the *hear-se* witness.

3. Learned State counsel has produced the custody certificate of the petitioner, which is taken on record.

4. This Court after hearing the counsel for the respective parties, got

an occasion to go through the deposition of PW-1 Mohan Lal attached as Annexure P-10 with the instant petition, who in his cross-examination has stated that his uncle Rakha Ram firstly brought the deceased to their house on bullock cart and then shifted to Civil Hospital, Sirsa, his uncle was conscious at that time. After examination by RMP Dr. Vinod reference was made to the Government Hospital, Sirsa, which was at a distance of 12-13 Kms. Further, it is revealed that no blood stains were found in the room and even the bullock cart has not been examined in this case. It is not in dispute that the petitioner has already suffered custody for a period of 2 years 3 months and 23 days wherein charges were framed on 02.08.2021 and out of 13 prosecution witnesses only 3 have been examined so far, which clearly suggests that the trial will take long time to conclude. The petitioner cannot be put behind the bars for an indefinite period, which would amount to infringement of his right to life and liberty, as enshrined under Article 21 of Constitution of India and is against the principle “bail is rule and jail is an exception”. It is the basic principle of criminal jurisprudence that until or unless guilt is proved, no body can be punished.

5. In view of the above discussions made hereinabove, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

6. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

(SANDEEP MOUDGIL)
JUDGE

31.05.2023

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