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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-14785-2023
DECIDED ON: 28th MARCH, 2023

KALA SINGH

PETITIONER

VERSUS

STATE OF PUNJAB

RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Nirmaljeet Singh Sidhu, Advocate
for the petitioner.

Mr. Mohit Chaudhary, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

The jurisdiction of this Court under Section 439 of the Code of Criminal Procedure, 1973 has been invoked for grant of regular bail to the petitioners in case FIR No. 179, dated 09.10.2022, under Sections 384, 386, 387, 506 and 120-B of the Indian Penal Code, 1860 (for short 'IPC') and Sections 25, 25(6) and 27 of Arms Act, 1959, registered at Police Station Talwandi Sabo, District Bathinda.

Learned counsel for the petitioner has contended that the main accused is Manpreet Singh @ Manna who demanded ₹5,00,000/- and the petitioner has been falsely implicated having no attribution. It is also submitted that from the bare reading of FIR, it is evident that co-accused Manpreet Singh @ Manna had demanded the ransom from the complainant.

Custody certificate of the petitioner filed by learned State counsel is taken on record. As per the certificate the petitioner has suffered incarceration for a period of 5 months and 9 days as of now. He opposes the prayer made in the present petition on the ground that 5 other cases are also pending against the petitioner meaning thereby, he is a habitual offender and does not deserve the concession of regular bail.

Having heard learned counsel for the respective parties.

Considering the custody period undergone by the petitioner so far and the fact that in the present case challan stands presented wherein conclusion of trial shall take sufficient long time added with the fact that there is no direct evidence against the petitioner as far as the version is concerned, this Court is of the view that no useful purpose would be served by keeping him behind the bars any more.

As far as the contention raised by the learned State counsel with regard to the pendency of other cases is concerned this Court cannot lose sight of the fact that in all those cases, the petitioner is on bail, which is otherwise also cannot be a predicament to consider the present petition in the light of the judgment passed by this Court in the case of ***Baljinder Singh @ Rock vs. State of Punjab, CRM-M-25914-2022, decided on 03.03.2023.***

No doubt, at the time of granting bail, the criminal antecedents of the petitioner are to be looked into but at the same time it is equally true that the appreciation of evidence during the course of trial has to be looked into with reference to the evidence in that case alone and not with respect to the evidence in the other pending cases. In such eventuality strict

adherence to the rule of denial of bail on account of pendency of other cases/convictions in all probability would lend the petitioner in a situation of denial the concession of bail.

A Division Bench of this High Court in ***Rajender Singh vs. State of Haryana, 2022(2) R.C.R. (Criminal) 85*** has held that a right under Article 21 of the Constitution of India includes right to speedy trial and expeditious disposal which is also in public interest primarily showing concern with the view point:-

- (a) the period of remand and pre-conviction detention should be as short as possible. In other words, the accused should not be subjected to unnecessary or unduly long incarceration prior to his conviction;*
- (b) the worry, anxiety, expense and disturbance to his vocation and peace, resulting from an unduly prolonged investigation, inquiry or trial should be minimal; and*
- (c) undue delay may well result in impairment of the ability of the accused to defend himself, whether on account of death, disappearance or non-availability of witnesses or otherwise.*

This Court would go little further to consider that there is a difference between grant of bail under Section 439 and 438 of Cr.P.C., as compared to suspension of sentence under Section 389 of Cr.P.C.. In the case of suspension of sentence, the conviction order is already there whereas while considering the petition either under Section 438 or 439 Cr.P.C., there may be presumption of innocence which in fact is a fundamental postulate of criminal jurisprudence.

Looking at the said principle alone, the Hon'ble Apex Court in

the case of *Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131* has held that the bail is the rule and jail is an exception.

In view of afore-said discussions, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, concerned.

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

28th MARCH, 2023

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| 1. Whether speaking/ reasoned : | Yes / No |
| 2. Whether reportable : | Yes / No |