

(209) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-25882-2023

Date of Decision:26.05.2023

Krishan @ Boxer

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM : HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present : Mr. Raj Mohan, Advocate for
Mr. Rajesh Nain, Advocate for the petitioner.

Mr. B.S. Dhankar, Addl. A.G. Haryana.

SANDEEP MOUDGIL, J. (Oral)

This petition under Section 439 Cr.P.C has been filed for grant of regular bail to the petitioner in FIR No.09 dated 07.01.2023 registered under Sections 307, 387, 34 of IPC, 1860 and Section 25 of Arms Act, 1959 (Section 201, 120-B of IPC added later on) at Police Station City Tohana, District Fatehabad, Haryana.

Learned counsel for the petitioner contends that the petitioner was not named in the FIR. He was arrested subsequent to the disclosure statement suffered by the co-accused namely Rohit @ Tidda son of Sash Ram. It is also his case that even after the disclosure statement, nothing has been recovered and as per CCTV footage, the petitioner was not accompanying the other three persons who attacked on the shop as alleged in the FIR.

Learned State counsel has produced the custody certificate according to which the petitioner has suffered 4 months and 12 days of custody though he was arrested on the basis of disclosure statement but admitted was not named in the FIR; no overt act has been attributed to him and there is no allegation or statement by the other accused to connect the petitioner with the commissioning of offence.

of the view that no cogent material or connecting evidence is brought on record at least before this Court for considering the bail petition to show active role of the petitioner in the commissioning of offence and in which manner he supported the other accused particularly in the light of the fact that neither any injury has been attributed nor any recovery has been effected from the petitioner, apart from the fact that co-accused, namely, Sunil Kumar has already been granted bail by the Court vide order dated 10.03.2023 passed in CRM-M-10962-2023. The trial of the case is likely to take long time to conclude and investigation of the case is complete and no custodial interrogation of the petitioner is required. Now the case before the trial Court is fixed for framing of charges. As far as pendency of other cases is concerned, reliance can be placed upon the judgment of the Hon'ble Apex Court in the case of ***Dataram Singh vs. State of Uttar Pradesh and another***; 2018 (2) R.C.R (Criminal) 131 wherein it has been held as under:

“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.”

Considering the totality of facts and circumstances of the case and the custody period faced by the petitioner during the pendency of the trial which is likely to take sufficient time to conclude, this petition is allowed and the petitioner is ordered to be released on bail subject to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

(SANDEEP MOUDGIL)
JUDGE

26.05.2023
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