

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

CRM-M-25942-2023

Date of Decision:26.05.2023

Sonu

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM : HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present : Mr. Atul Lakhanpal, Sr. Advocate with
Ms. Neha Lakhanpal, 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.184 dated 18.06.2021 registered under Section 302, 201, 34 IPC at Police Station Adampur, District Hisar.

Learned counsel for the petitioner contends that it is a case of blind murder wherein the petitioner has been involved merely on the basis of suspicion as there is no eye witness whatsoever. It is also asserted by the learned senior counsel that in fact there were other co-accused who were involved in the commissioning of offence and have been apprehended. The petitioner was arrested and nominated as an accused on the basis of disclosure statement made by another co-accused namely Rakesh Pandit.

Learned State counsel has produced the custody certificate and argues that the petitioner was specifically named in the FIR and mobile phone of Jaivir has been recovered from the possession of co-accused but could not controvert the fact that no recovery of any weapon alleged to have been used in the commissioning of offence has been effected from the possession of the petitioner and nothing incriminating material is available to connect the petitioner with the commissioning of the offence so far. A perusal of the custody certificate shows

also evident that he is not involved in any other case whatsoever showing his clean antecedents. Apart from the fact that no overt act has been attributed to the petitioner and it was a case of blind murder. It is also noticed that out of 18 prosecution witnesses, only nine witnesses have been examined and the trial will take sufficient time to conclude. No useful purpose would be served by further incarcerating the petitioner behind bars . The Apex Court in the case of Ashish Mishra alias Monu v. State of U.P.; 2023 (1) Crimes 303 has observed as under:

“13. We are conscious of the grave allegations levelled against the petitioner but we must also acknowledge that principles of procedural fairness require these allegations to be proven in trial proceedings. In the present case, charges have been framed and petitioner is in custody for more than a year. In view of the large volume of oral and documentary evidence, which the prosecution is entitled to lead in both the cases, coupled with the defence evidence, if any, trial cannot be expected to be concluded that early.

15. At the same time, we find ourselves with the apprehensions raised regarding fair trial and the doubts surrounding the impartiality of the conduct of law enforcement agencies. We are, therefore, of the view that it is imperative to balance the rights of petitioner's liberty emanating under Article 21 vis-a-vis the State's right to ensure a fair and proper trial and safeguard the legitimate outcry of the victim (s) of crime.”

Considering the totality of facts and circumstances of the case particularly the custody already faced by the petitioner during the pendency of the trial which is likely to take sufficient time to conclude and out total 18 prosecution witnesses, only 9 witnesses have been examined so far, 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

rajeev

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No