

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

**CRM-M-26802-2023
DECIDED ON: 31.05.2023**

ROHIT @ ROCKY

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Sanpreet Sandhu, 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. 89, dated 09.03.2019, under Sections 302, 120-B, 216 of IPC, 1860 and Section 25 of Arms Act, 1959, registered at Police Station Kundli, District Sonipat (Annexure P-1).

2. Learned counsel for the petitioner contends that its a case of blind murder, as four people were numbered out in the FIR and the petitioner was not named therein. The case set up by the counsel for the petitioner for the grant of regular bail is that the petitioner has already suffered a reasonable period of custody i.e., more than 4 years, wherein no specific injury has been attributed to him and neither any weapon was recovered from his possession whatsoever with the allegation, if at all, he has used it.

3. Learned State counsel has filed the custody certificate of the

petitioner, which is taken on record and has vehemently contended that the petitioner is a habitual offender, as has been detailed in the custody certificate as well. However, he is not in a position to deny the fact that no injury has been attributed to the petitioner, as is apparent from the record, neither has been weapon has been recovered from his possession.

4. Looking into the totality of facts and circumstances of the case and submissions made by learned counsel for the respective parties, since its a case of no injury and neither any weapon has been recovered from his possession apart from the fact that trial is likely to take long time, in the light of the fact out of 41 prosecution witnesses, only 3 have been examined so far and the petitioner has suffered incarceration for a period of 4 years, 1 month and 21, which in itself is punitive in nature and no one can be punished until or unless guilty is proved beyond reasonable of any doubt.

5. This Court is sanguine of the fact that according to the proposition settled by the Apex Court that keeping somebody behind the bars, till his guilt is proved, for an indefinite period amounts 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".

6. As far as the pendency of other cases is concerned as has been stated by learned State counsel, 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.

7. In view of the aforesaid 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.

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

31.05.2023

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(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>