

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

2023:PHHC:081535

CRM-M-26906-2023

Date of Decision: 05.06.2023

Afsar Ali

. . . . Petitioner

Vs.

State of Punjab

. . . . Respondent

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present Mr. Anureet S. Sidhu, Advocate
for the petitioner.

Mr. Rajiv Verma, DAG, Punjab.

SANDEEP MOUDGIL, J.(Oral)

This is the first petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.208 dated 17.08.2019 under Sections 419, 420, 467, 468, 471 and 120-B of the Indian Penal Code, 1860 and Sections 65, 66, 66-C, 66-D and 66-E of the Information Technology (Amendment) Act, 2000 registered at Police Station Civil Lines, Patiala, District Patiala (Annexure P-1).

Learned counsel for the petitioner contends that the petitioner was in custody in FIR No.188 dated 29.07.2019 under Sections 419, 420, 467, 468, 471 and 120-B IPC and Sections 66 and 66-D of the Information Technology (Amendment) Act, 2008, registered at Police Station Civil Lines, Patiala. During interrogation, on the basis of a disclosure statement, the present FIR was lodged. It is further the contention that the offence alleged to have been committed is the same as in FIR No.188 dated 29.07.2019.

Learned counsel for the petitioner further contends that the instant FIR has been lodged by the complainant due to ulterior motive and ill will towards the petitioner as there is nothing against the petitioner in the FIR. Only false allegations are leveled against the petitioner just because similar nature of cases has been registered against the petitioner. Furthermore, the petitioner was already in lock up in FIR No.33 dated 03.08.2019 under section 414, 419, 420, 467, 468, 471 and 120-B and section 66 of (B)(C)(D) of IT Act.

Per contra learned State counsel has produced the custody certificate which is taken on record, according to which the petitioner has suffered 3 years, 9 months and 11 days of custody who is involved in various other cases of different nature meaning thereby he is a habitual offender and hence does not deserve the concession of bail.

Considering the custody period undergone by the petitioner i.e. 3 years, 9 months and 11 days, wherein challan stands presented and trial is at the stage of prosecution which is likely to take some time, added with the fact that co-accused of the petitioner has already been granted the concession of regular bail vide order dated 21.04.2023 (Annexure P-3) passed in CRM-M-31560-2021 by the Coordinate Bench of this Court. As far as the pendency of other cases and involvement of the petitioner in other cases is concerned, reliance can be placed upon the order of this Court rendered in CRM-M-25914-2022 titled as *“Baljinder Singh alias Rock vs. State of Punjab”* decided on 02.03.2023, wherein, while referring Article 21 of the Constitution of India, this Court has held that 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.

In the light of the discussion made hereinabove, the petitioner is directed to be released on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

(SANDEEP MOUDGIL)
JUDGE

June 05, 2023

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