

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

**CRM-M-39144-2020
DECIDED ON: 16.03.2023**

BALJINDER SINGH @ KALA

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Aminder Singh, Advocate for the petitioner.

 Mr. Mohit Chaudhary, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

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. 355, dated 19.12.2019, under Sections 302, 34, 459, 460 and 120-B IPC registered at Police Station Dhuri, District Sangrur.

Learned counsel for the petitioner has contended that the role attributed to the petitioner is of lifting of other two co-accused, to enable them in scaling the wall of the house of the complainant, who further alleged to have committed the offence. Apart from that no overt act has been attributed to the petitioner, as has been argued by learned counsel for the petitioner. The assertion is that the petitioner was not initially named in the FIR and has been roped in subsequently, in further investigation along-with two other persons and there is no direct evidence against the petitioner to connect him with the offence alleged in the FIR.

Custody certificate of the petitioner filed by learned State counsel is taken on record. According to the said custody certificate the petitioner has undergone the incarceration for a period of 3 year 1 month and 23 days as of now.

Learned State counsel has opposed the prayer made in the present petition on the

ground that the petitioner has played an active role in commissioning of offence, who facilitate the other two co-accused in scaling the wall of the house of the complainant and various articles were recovered from the possession of the co-accused namely Maninder Singh and Sukhpreet Singh.

Be that as it may, considering the fact that no overt act has been coming forth qua the petitioner except enabling the other two co-accused in scaling the wall of the house of the complainant and there is no direct evidence qua the petitioner to connect him in commissioning of offence added with the fact that out of total 26 prosecution witnesses only 8 have been examined so far, wherein, the petitioner has already suffered incarceration for a period of more than three years and conclusion of trial shall take sufficient long time, the petitioner is ordered to be released on regular bail subject to his furnishing personal and surety bonds to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate concerned.

In view of afore-said terms, the present petition stands allowed.

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

16.03.2023

sham

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