

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

204

CRM-M-46019-2023

Date of Decision:-20.09.2023

DILBAR KUMAR @ GORU @ SHOOTER

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Ritesh Pandey, Advocate
for the petitioner.

Mr. Rajiv Verma, DAG, Punjab.

SANDEEP MOUDGIL, J. (Oral)

1. This second petition invoking the jurisdiction of this Court under Section 439 Cr.P.C. has been moved with a prayer for grant of regular bail to the petitioner in FIR No.81 dated 02.09.2022 registered under Sections 365, 34 IPC (Sections 302, 307, 148, 149, 120-B, 202, 204, 212, 216 IPC added later on) at Police Station Sadar Pathankot, District Pathankot.

2. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in this case on the basis of disclosure statement of one of the co-accused namely Mohit, who has already been granted bail by this Court vide order dated 10.02.2023 passed in CRM-M-6259 of 2023. He further contends that the injuries attributed to the petitioner are not on the vital organs of the deceased, rather injuries were inflicted on the arms of the deceased, as he was armed with datar and it has not been identified whether injuries have been inflicted either on right or left arm, therefore, medical reports as well as post mortem report are inconclusive in nature. He submits that

vital injury was on the head of the deceased, as has been recorded in the post mortem report and injuries on any other vital organs are not admittedly attributed to the petitioner. He further submits that the petitioner is in custody for 12 months and 1 day and he is not involved in any other case.

3. Learned counsel for the petitioner further submits that challan has been presented and out of total 42 witnesses, none has been examined so far, which shows that the trial Court will take certainly some time for conclusion, as still quite an exhaustive trial proceedings are pending before the trial Court.

4. Learned State counsel has produced custody certificate, which is taken on record. Copy of the same has been furnished to the learned counsel for the petitioner.

5. Learned State counsel contends that the allegations levelled against the petitioner are serious in nature, however, he does not dispute the fact that out of total 42 witnesses, none has been examined so far.

6. Looking into the totality of facts and the discussions made hereinabove that the petitioner is in custody for 12 months and 1 day and out 42 witnesses, none has been examined so far, this Court is of the firm view that no useful purpose would be served by keeping the petitioner behind the bars for uncertain period, wherein bail is a rule and jail is an exception and it would violate the principle of right to speedy trial and expeditious disposal under Article 21 of the Constitution of India, as has been time and again discussed by this Court, while relying the judgment of the Apex Court passed in ***Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131.***

7. In the light of the above, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial

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Court/Duty Magistrate, concerned.

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

20.09.2023
P.Bhatt

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No