

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

202

CRM-M-56802 of 2023

Date of Decision:17.11.2023

Anil

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Harish Bhatti, Advocate,
for the petitioner.

Mr. Sandeep Singh Mann, Addl. A.G. Haryana

SANDEEP MOUDGIL, J. (Oral)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.266 dated 05.08.2020, under Sections 398, 401 IPC and Sections 25/29-54-59 of Arms Act, registered at Police Station Sadar Jind, District Jind.

2. The factual martix as read out from the FIR, is reproduced as under:-

“To, SHO Sahib Thana Sadar Jind Jai Hind. Today Man SI Mey ASI Samarjit No. 959/Jind, HC Manoj Kumar No. 401, HC Vikram Singh No. 768, EASI Ram Singh No. 402, Mr. Sajit No. 240 of Baswari vehicle Government No. HR 31L-6944 Driver EHC Jogendra Singh No. 411 through secret informer was present near the village Kadela Chabutra that the informer met and informed the Man SI that four youg boys, who had a white colored Endavor car whose number plate was removed, were stuck on the road from Kandela to village Kair Khedi. Putting his car on the road in the direction of Kerkhedi village

ahead of closed Bhatta, they were trying to rob the vehicles or persons coming there, with their weapons, if the raid is carried out, then he can be arrested with vehicle and weapons, which informer received is sure. After making the fellow employee informed about the informer or instructing about the raid and the people coming and being asked to be witnesses, due to the time of the night, after expressing their compulsions, they left the place without informing the name and then the car Hamarahiyan SI May, Hiding the police identity of the government, from village Kandela to Kair Khedi, we reach the road ahead of the closed brick kiln on the road, as soon as our car reached near them on the road In the dark, we were seen standing them with the lights of the car, when our car reached near them three boys from the front with the intention of robbing our car with their weapons in their hands made stop us by making a circle on both sides and the boy standing in the driver's side showed the weapon holding in hand to the driver and said that whatever you have give us. After listening this ASI Saamarjit Singh on the between light of car, after light on seeing the police party uniform, all the three boys ran towards their car to run away from the spot, the min SI said with a voice that none of them could escape while defending themselves with their weapons and arrest them, then the min SI ran away after opening his window and hold the driver of the endeavor car parked in front and took out the key of the car and while running away, one of the three boys was caught by ASI Samarjit Singh or the other by HC Vikram Singh and the third was caught by HC Manoj Kumar then the SI caught the boy and asked him his name, and address then he told his name Anil son of Ajit Singh resident of Saman, then the boy was caught by ASI Samarjeet with desi pistol presented before min SI after enquiry who told his name and address as Sumit alias Dillu son of Rajendra residence of Saman from which Man SI checked the recovered pistol, found the pistol desi .32 bore, whose magazine was removed and checked, two round .32 bore was found in the magazine which two

round .32 bore is recovered. After preparing the blue print of the pistol and two round, then the barrel length was 10.5 CM, but length was 09.5 CM, body length was 17 CM, which was marked A, after that the boy caught by the HC Vikram Singh presented before the Man SI who on enquiry told his name, Manoj @ Kalu son of Rajesh Kumar residence of Saman, from whom he checked the recover desi pistol, found pistol country .32 bore, whose magazine was taken off and checked, then two round .32 bore were found in the magazine. After preparing the blueprint of the recovered pistol or two round and measured, then the barrel size was 10 CM, the butt was 8.5 CM, the body size was 17.5 CM, which was marked B, in the end, the boy captured by HC Manoj Kumar presented with the pistol before Min SI, who on inquired disclose his name address Rohit alias Apradi son of Mukesh resident Bhaini Surjan police station Maham, when he checked the recover desi pistol .30 bore round, found pistol .30 bore, whose magazine was taken off and checked, then two round .30 bores were found in the magazine, after preparing the blueprint and measuring which was of recover pistol .32 bore or two round, then the height of the barrel was 12.5 CM, length of the butt was 10.5 CM, length of the body was 20.5 CM which was marked as C. Then asked for the license of recover pistols, then no one could present the license, then put the recover pistol and two round in separate -2 plastic boxes and prepare the palandas, put all the seals with the seal JR and keep the sample seal, keep the sample after the seal and handed to ASI Samarjeet Singh. Accused has signed his covers, Sumit alias Dillu, Manoj alias Kalu, or Rohit alias Apradi, or witness has signatures on recovered pistol, round palanda or vehicle endeavor without number whose chassis number is MAJUXXMR2UAU20717 as the reason taken into possession of the police, the accused and witness has signed on their disclosure. One-two vehicles came on the spot and they asked for the become witnesses but without told his name and address and after make excuse went from there. That Anil,

Sumit @ Dillu, Manoj alias Kalu, or Rohit alias Apradi. The above has committed the crime of sections 398, 401 IPC 25/54/59 Arms Act by trying to rob the passers-by, so Tehrir Haza Baraye Kaymi case Badst Constable Sajit No. 240 of Arsal Police Station. After that, the registered case no. Should be informed from the number form Min SI myself is the complainant of the present case. Another investigating officer should be sent on the spot for the upcoming investigation. Min SI is present on the spot. Aj Bahad Rakba Gaon Kandela SD Jeetram SI No. 809/Jind Detective Staff Jind date 05.08.2020 at 10:20 PM.”

3. It is contended by learned counsel for the petitioner that he is a young person of 24 years (approximately) and is in custody since 06.08.2020 i.e. for quite a reasonable period of three years, three months and ten days merely on the allegation that the petitioner was arrested by the Sub-Inspector while sitting on the driver seat of Endeavour Car which was found involved in the commissioning of offence.

4. The case set-forth by the petitioner is that he has falsely been implicated in the present case. Learned counsel submitted that the petitioner belongs to a poor family and is the only bread earner of his family whose father has expired and mother has been recently operated upon major head surgery. The petitioner has also given details of other cases in para 4 (ix) of the petition in which he is involved and he is on bail in all the cases facing trial.

5. Mr. Sandeep Singh Mann, learned Addl. A.G. Haryana has supplied custody certificate dated 16.11.2023 in respect of the present petitioner during the course of proceedings, which is taken on record. Learned State counsel opposed the grant of regular bail to the petitioner while submitting that the petitioner is a habitual offender and out of a total of 15 prosecution witnesses, 12 witnesses have

been examined. He further submitted that the trial is towards the fag end and if the petitioner is released on bail, he may hamper the trial proceedings as there are strong chances of influencing the remaining witnesses and even absconding from the jurisdiction of the trial Court.

6. Be that as it may, as far as the pendency of other criminal cases registered against the petitioner is concerned, it cannot be a predicament for this Court to consider the instant application for regular bail under Section 439 of the Code of Criminal Procedure in the light of judgment rendered by this Court in **CRM-M-25914 of 2022** titled as **Baljinder Singh @ Rock versus State of Punjab** and is being consistently followed in other cases, on this issue, observing that the material and the evidence in other FIRs cannot be read against the petitioner in the instant FIR, during the course of trial, before recording the conviction, in any manner, whatsoever. It is undeniable that the petitioner is in custody in other cases keeping in view the fact that he is unable to furnish the surety bonds as directed by the trial Court which further strengthens the case of the petitioner that he belongs to a poor strata of society and is not in a position to provide sufficient surety bonds as is being directed by the trial Court, from time to time, in other pending cases. It is, in fact, an unfortunate case where due to poverty, a person is compelled to stay inside the jail despite orders of the Courts for releasing him on bail and on that count alone, the instant petition for regular bail cannot be dismissed. There is no dispute to the legal proposition that Article 21 of the Constitution of India not only ensures speedy trial but also guarantees that “bail is the rule and jail is an exception” and by keeping a person behind the bars for an indefinite period certainly curtails his right to life and liberty until and

unless, he stands convicted by any Court of law which is not a case in the instant petition against the petitioner.

7. On merits, there is a very insignificant role pointed out by the prosecution that he was found sitting in the driver seat of the Endeavor Car whose chassis number is *MAJUXXMR2UAU20717* from where he has been arrested but no incriminating and cogent material has been placed on record so far, to connect the petitioner with the commissioning of the offence.

8. In view of the aforesaid facts and circumstances and the submissions made by learned counsel for the parties, this Court deems it fit and proper to grant regular bail to the petitioner. Consequently, the present petition is allowed. The petitioner shall be released on regular bail, if not required in any other case, subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned. However, the trial Court shall borne in mind while fixing the surety bonds financial condition of the petitioner who is unfortunately suffering custody and incarceration behind the bars on account of being unable to submit his personal/surety bonds to the Court.

9. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of the present petition.

(SANDEEP MOUDGIL)
JUDGE

November 17, 2023
dinesh

Whether speaking	:	Yes
Whether reportable	:	Yes