

2023:PHHC:051926

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No. 217

CRM-M-413-2023

Date of Decision:-13.04.2023

ROHIT TYAGI

... Petitioner

Versus

STATE OF HARYANA

.. Respondent

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CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

-. -

Present:- Mr. Shakti Mehta, Advocate for the petitioner.

Mr. G.S. Dhillon, AAG, Haryana.

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SANDEEP MOUDGIL, J. (Oral)

This petition has been filed under Section 439 of Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No. 0094 dated 03.06.2021 (Annexure P-1) under Section 379 and 420 of IPC, 1860 (added later on Section 419, 467, 468, 471, 120-B of IPC) and Section 66-C of the Information and Technology Act, 2000 registered at Police Station Hassanpur, District Palwal, Haryana.

Learned counsel for the petitioner contends that he was not named in the FIR who has been implicated therein in the case falsely merely on the basis of disclosure statement of one Chitranjan. He has also submitted that the amount in dispute alleged to have been withdrawn from the bank account with using unlawful means stands recovered from the bank account of Amir Hussain and Vinay Kumar. On the other hand learned State counsel has produced the custody certificate, which is taken on record. The petitioner is involved in 73 other likely FIRs having origing of the same identical offence time and again, an habitual offender and last found in possession of various fake aadhar Cards and debit cards and therefore, does not deserve the concession of regular bail.

The court has gone through the record of the case wherein the petitioner has already served 1 year 10 months and 4 days in custody and the fact of pendency of other cases against the petitioner is

also supported by the details mentioned in the custody certificate which are not confronted by the counsel for the petitioner. The fact remain to be seen in the present case is as to whether any recovery of amount has been made from his possession or any bank accounts as far as the instant FIR is concerned. This Court has been time and again observing that the evidence in the other case should not be impediment to consider the concession of bail at least in the present case which is not to be taken into consideration by the trial Court at all as the case is to be proceeded on the basis of cogent material and evidence produced in the instant case.

A Division Bench of this Court in the case “**Rajender Singh vs. State of Haryana**”, 2022(2) R.C.R. (Criminal) 85 has held that a right under Article 21 of the Constitution of India includes right to speedy trial and expeditious disposal which is also in public interest primarily showing concern on the following view point.;

- (a) the period of remand and pre-conviction detention should be as short as possible. In other words, the accused should not be subjected to unnecessary or unduly long incarceration prior to his conviction;*
- (b) the worry, anxiety, expense and disturbance to his vacation and peace, resulting from an unduly prolonged investigation, inquiry or trial should be minimal; and*
- (c) undue delay may well result in impairment of the ability of the accused to defend himself, whether on account of death, disappearance or non-availability of witnesses or otherwise.*

Considering the said principle alone, the Hon’ble Apex Court in the case of **Dataram Singh vs. State of Uttar Pradesh & Anr.** 2018(2) R.C.R. (Criminal) 131 has held that the bail is the rule and jail is an exception.

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.

Apart from the fact that the trial is likely to take time and particularly in the light of the fact that nothing was recovered from the possession of the petitioner during the course of investigation pertaining to the instant FIR, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, concerned.

The present petition is, hereby, 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.

13.04.2023
yogesh

(SANDEEP MOUDGIL)
JUDGE

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