

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

213-CRM-M-301-2024 (O&M)

Date of Decision: 07.02.2024

Shubham

... Petitioner

VS.

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Ramnish Puri, Advocate for the petitioner

Mr. BS Virk, Sr.DAG Haryana

Sandeep Moudgil, J. (Oral)

CRM-5632-2024

Allowed as prayed for. Document (Annexure P8) is taken on record subject to just exceptions.

CRM stands disposed of.

Main case

The jurisdiction of this Court has been invoked under Section 439 Cr.P.C., for grant of regular bail to the petitioner in FIR No.429 dated 17.12.2022 (Annexure P-1) under Sections 302/34 IPC, registered at Police Station Sadar Safidon, District Jind.

Learned counsel for the petitioner contends that it is a case of blind murder and there is no incriminating material or evidence available with the prosecution to connect the petitioner with the alleged offence which may raise the probability for conviction in the offence under Section 302 IPC who has already faced custody of more than 1 year by now. He also asserts to say that in the FIR, the petitioner was not named and no role whatsoever has also

come on record to connect the role of the petitioner with the commissioning of the offence.

On the other hand, learned State counsel has produced the custody certificate of the petitioner dated 06.02.2024, which is taken on record, which shows that he has suffered incarceration for a period of 1 year 1 month and 09 days. He further argues for dismissal of regular bail in the instant petition making an effort to contend that the motive connected to the commissioning of offence is that the petitioner wanted to go abroad and for that he required money and as such, he has committed the offence and that apart, one binda along with motor-cycle was recovered from the possession of the petitioner. He submits that the petitioner was arrested on 25.12.2022 and on the disclosure statements of the co-accused Ishwar and Rakesh who were arrested on 27.12.2022. He informed that charges in the instant case was framed on 31.07.2023 and out of total 23 witnesses, only 9 witnesses have been examined so far.

Since the petitioner has already suffered custody for more than 1 year 1 month and 09 days and also that the present is a case of blind murder where there is no eye witness and as such the story of the prosecution is yet to be established by leading cogent evidence added with the fact that the petitioner has not been found involved in any other case and thus not a habitual offender, it becomes abundantly clear that the trial will take certainly long time to conclude and in such a situation, detaining the petitioner behind the bars for an indefinite period would amount to violation of Article 21 of the Constitution of India and is against the principle "Bail is a rule, jail is an exception" as

elucidated in the judgement of Apex Court in “*Dataram Singh vs. State of Uttar Pradesh and another, (2018) 3 SCC 22*”.

Therefore, taking into consideration the totality of the circumstances as also the fact that the trial is likely to take some time, therefore, no fruitful purpose will be served by keeping the petitioner behind bars, this petition is allowed and the petitioner is directed to be released on regular bail on furnishing bail and surety bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate concerned.

However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

07.02.2024
V.Vishal

1. Whether speaking/reasoned?
2. Whether reportable?

Yes/No
Yes/No

(Sandeep Moudgil)
Judge