

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-2185-2023 (O&M)

Date of decision: 21.02.2024

Raj Kumar

...Petitioner

Vs.

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Keshav Pratap Singh, Advocate,
and Mr. Sarfaraz Gill, Advocate,
for the petitioner.

Mr. Gurbir Singh Dhillon, AAG, Punjab.

Sandeep Moudgil, J. (oral)

This is a petition seeking regular bail in FIR No.0238, dated 09.06.2022, under Sections 148, 149, 307, 323, 324 of Indian Penal Code, 1860 and 25 of Arms Act (Sections 216, 326 & 201 IPC added later on during investigation), registered at Police Station, Rewari City, District Rewari (Haryana).

Learned counsel for the petitioner has referred to the order dated 21.12.2022 passed in CRM-M-54010-2022, whereby co-accused Rajesh has been granted the concession of regular bail by this Court. He states that the case of the petitioner is at better footings than the co-accused. He further asserts that applicant-petitioner (Raj Kumar) was the pillion rider on the motorcycle, which was driven by co-accused Rajesh, who has been granted the concession of regular bail by this Court, as recorded

Learned State counsel, on the other hand, does not controvert the fact of parity as well as the riding of the petitioner on the pillion seat of the motorcycle, which was being driven by co-accused Rajesh, though submits that he got recovered a country made pistol during the course of investigation, vide which, he had inflicted injury on the leg of the victim.

Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. According to the custody certificate, the petitioner is behind the bars for the last 01 year, 06 months and 14 days. He further submits that the petitioner is an habitual offender, who is involved in various other cases, therefore does not deserve the concession of regular bail.

Be that as it may, considering the fact that the co-accused Rajesh as well as Govind @ Chotu have already been granted the concession of bail vide orders dated 21.12.2022 and 24.11.2022 passed by this Court and the Court of Sessions Judge, Rewari, respectively, detaining the petitioner in custody would not serve any purpose. Moreover, the investigation in the present case is complete and after filing of the challan, charges have been framed on 07.01.2023 and since then, none out of 43 prosecution witnesses has been examined so far, which is sufficient for this Court to infer that the trial is moving at snail's pace and will take considerable time to conclude. As far as the pendency of other cases and involvement of the petitioner in other cases is concerned, reliance can be placed upon the order of this Court rendered in CRM-M-25914-2022 titled as ***“Baljinder Singh alias Rock vs. State of Punjab”*** decided on 02.03.2023, wherein, while referring Article 21 of the Constitution of India, this Court has held that 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, the petitioner cannot be detailed behind the bars for an indefinite period. As far as pendency of other case is concerned, this Court in various judgments has already observed that pendency of other FIRs involving the accused-petitioner cannot be a predicament to consider the case for anticipatory bail or regular bail, as the evidence of the material involved in those FIRs can be treated in those cases alone and is not material for the instant FIR.

In 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 Chief Judicial Magistrate/Duty Magistrate, concerned.

The present petition is, hereby, allowed.

(SANDEEP MOUDGIL)
JUDGE

21.02.2024
Ajay Prasher

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