

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-7176-2024
DECIDED ON: 10.04.2024

SUKHRAJ SINGHPETITIONER
VERSUS
STATE OF PUNJABRESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Rajni Gupta, Advocate
for the petitioner.

Mr. Jasjit Singh Rattu, DAG, Punjab.

Mr. H.S. Randhawa, Advocate
for the complainant.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court under Section 439 Cr.P.C. has been invoked for the grant of regular bail to the petitioner in case FIR No.151, dated 12.10.2014, under Sections 302, 148, 149, 120-B IPC, registered at Police Station Sarhali, District Tarn Taran.
2. The present case has been registered on the statement of Salwinder Singh on the allegation that 12.10.2014 at about 7 PM all the accused persons in furtherance of their common intention inflicted injuries on the person of son of the complainant as a result of which he succumbed to his injuries.
3. Learned counsel for the petitioner submits that the petitioner along-with other accused persons were declared as innocent in an inquiry conducted by an officer of the rank of Inspector General of Police on the basis of polygraph test carried out in Delhi. It is further submitted that no overt act has been attributed to the petitioner, as is evident from the contents of FIR. Apart from the fact that the petitioner was present at the spot with datar neither any specific injury nor any

specific role has been attributed to him. Moreover, the material witnesses did not support the case of the prosecution as such the co-accused of the petitioner stands acquitted by learned trial Court vide its judgment dated 04.08.2018 (Annexure P-4).

4. Learned State counsel as well as counsel for the complainant pray for dismissal of the present petition stating that the petitioner was declared proclaimed offender on 19.01.2015 on account of his absence for a long span thereafter, he surrender before the trial Court and arrested on 18.08.2018, as such he does not deserve the concession of bail on this account alone. Moreover, the petitioner is also involved in another case under IPC meaning thereby, he is habitual offender.

5. Be that as it may, considering the custody period undergone by the petitioner i.e. 5 years 7 months and 3 days added with the fact that the other co-accused persons stands acquitted by learned trial Court vide its judgment dated 04.08.2018 (Annexure P-4), no useful purpose would be served by detaining the petitioner behind the bars for an indefinite period.

6. This Court is sanguine of the fact that according to the proposition settled by the Apex Court that keeping somebody behind the bars, till his guilt is proved, for an indefinite period amounts to infringement of his right to life and liberty, as enshrined under Article 21 of Constitution of India and is against the principle of "bail is rule and jail is an exception".

7. As far as the pendency of other cases is concerned as has been stated by learned State counsel, 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.

8. In view of the discussions made hereinabove, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the learned Chief Judicial Magistrate/Duty Magistrate, concerned.

9. The present petition is, hereby, allowed.

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

(SANDEEP MOUDGIL)
JUDGE

10.04.2024

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<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>