

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-8899-2024 (O&M)
DECIDED ON: 26.02.2024

FIROJ KHAN ALIAS ROMI

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. V.K. Pujara, Advocate for
Mr. Chandan Singh Rana, Advocate
for the petitioner.

Mr. Gurbir Singh Dhillon, AAG Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Section 439 Cr.P.C., seeking regular bail to the petitioner in FIR No.101, dated 05.05.2023, under Sections 420, 406 of IPC, 1860 (Sections 120-B of IPC and Sections 10 & 24 of Emigration Act added later on), registered at Police Station Ismailabad, Kurukshetra.
2. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and the recovery of Rs.1,87,000/- was shown from the petitioner just to nominate both the husband and wife. He further submits that the main accused is Najma Begam (wife of the petitioner), from whom the recovery of Rs. 18,00,000/- has been effected, who has already been granted the concessions of anticipatory bail by this Court vide order dated 16.10.2023 (Annexure P-2) passed in CRM-M-26147-2023.

3. Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. He prays for dismissal of the present petition on the ground that the petitioner was a habitual offender, who is involved in multiple cases, though could not controvert the fact that petitioner's wife is the main accused, who has already been granted the anticipatory bail.

4. Heard, learned counsel for the respective parties.

5. Be that as it may, considering the fact that admittedly the main accused is the wife of the petitioner, who has already been granted the anticipatory bail by this Court and nothing is to be recovered from the possession of the petitioner added with the fact that conclusion of trial shall take sufficient time, as out of total 20 prosecution witnesses, none has been examined so far after framing of charges on 29.07.2023, no useful purpose would be served by keeping the petitioner behind bars for an uncertain period, which would amount to infringement of his right to life and liberty, as enshrined under Article 21 of Constitution of India and is against the principle "*bail is a rule and jail is an exception*", as has been time and again discussed by this Court, while relying upon the judgment of the Apex Court passed in ***Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131.***

6. As far as the contention of learned State counsel with regard to pendency of 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, this Court 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 not material in instant FIR against the accused-petitioner to hold him guilty.

7. In light of the above 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 trial Court/Duty Magistrate, concerned.

8. The present petition is hereby allowed.

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

26.02.2024

(SANDEEP MOUDGIL)
JUDGE

Meenu

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