

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

216

CRM-M-9661 of 2024

Date of Decision: 29.02.2024

Sagar @ Gulli

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Sandeep Saini, Advocate for the petitioner.

Mr. G.S. Chhina, AAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

This is a petition seeking regular bail to the petitioner in FIR No.314, dated 15.09.2022, under Sections 379-B, 201 and 34 of the IPC, 1860, registered at Police Station Babain, District Kurukshetra.

Learned counsel for the petitioner submits that the allegation against the petitioner is attributed to the effect that some unknown persons has snatched the mobile phone after giving an injury on the head with danda and thereafter fled towards his village Kandoli on the motor-cycle. In fact, the petitioner was subsequently named in the FIR on the basis of disclosure statement of co-accused Ajay @ Billa. Further contention on behalf of the petitioner inspire this Court to infer that false implication cannot be ruled out since he was arrested in another FIR No.602 dated 16.07.2022 under Sections 379 and 411 IPC after the disclosure statement of co-accused in that case as well but during the custody in that FIR, his confessional statement has been recorded to implicate the petitioner in the instant FIR. Recovery of mobile phone is not available on the police file as has been answered to a query putforth to Mr. Chhina by this Court. The recovery of motor-cycle is stated

to have been made on 29.09.2022 whereas the confessional statement of the petitioner was recorded on 28.09.2022 when he was already in custody in another FIR No.602 dated 16.07.2022 wherein he was taken into custody on 24.09.2022 and now stands convicted by the trial Court in that FIR who has been subsequently released as treating the custody period already undergone after 24 days of custody.

Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. According to the custody certificate, the petitioner has suffered incarceration of 01 year, 04 months and 29 days. He prays for dismissal of the present petition on the ground that the petitioner is involved in other cases as well.

Looking into the totality of facts and circumstances wherein the stage of the trial is at snail pace as 09 out of 22 witnesses has been examined so far after framing of the charges on 31.01.2023, which is suffice for this Court to observe that conclusion of trial shall take sufficient long time and no useful purpose would be served by keeping the petitioner behind the bars for an indefinite period. 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, 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.

In view of the above, 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 any observation made hereinabove, shall not be construed as an expression of opinion on the merits of the case.

29.02.2024

D.Bansal

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No