

212

2024:PHHC:029835

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-10196-2024
DECIDED ON:01.03.2024

LAKHWINDER SINGH @ LAKHI

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Imaan Singh Khara, Advocate
for the petitioner.

Mr. Jasjit Singh Rattu, DAG, Punjab.

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. 168, dated 22.11.2023, under Sections 307, 365, 342, 323, 148, 149 IPC (Section 326 IPC added later on) and Section 25 of Arms Act, 1959, registered at Police Station Sangat, District Bathinda.

2. It has contended on behalf of petitioner that it is a case of false implication, as is evident from the *Medico Legal Report (Annexure P-3)*, wherein 10 injuries have been detailed but none of them has been declared serious in nature, which would attract the provisions of Sections 307 IPC. As far as the role of the petitioner is concerned, it is submitted on behalf of the petitioner that he fired in the air and alleged to have been given a blow with the Butt (backside) of his pistol on the head of the complainant.

3. On the other hand learned State counsel has produced the custody certificate of the petitioner, which would depict that he has undergone incarceration for a period of 3 months and 5 days as of now and prays for dismissal of the present petition stating that the petitioner is involved in multiple cases meaning thereby, he is a habitual offender. Apart from that no incriminating material could be referred by learned State counsel to make out an offence under Section 307 IPC at this stage at least for consideration of regular bail to the petitioner.

4. Heard learned counsel for the respective parties.

5. Considering the afore-said facts and circumstances and the fact that injuries referred above are simple in nature and no active role has been attributed to the petitioner added with the facts that no specific injury has been attributed to the petitioner, which would fall within the ambit of Section 307 IPC at this stage; after completion of investigation challan stands presented on 20.02.2024; wherein, 23 prosecution witnesses has been cited and charges are yet to be framed meaning thereby, the conclusion of trial shall take considerable time, this Court is of the considered view that the petitioner cannot be detained for an indefinite period who has already suffered incarceration for a period of 3 months and 5 days without having any active participation in the offence.

5. 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.

6.. In view 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.

7. The present petition is, hereby, allowed.

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

01.03.2024

Sham

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*

(SANDEEP MOUDGIL)
JUDGE