

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

219 CRM-M-11720-2024
DATE OF DECISION: 11.03.2024

HARDEEP SINGH ALIAS DHEER ...PETITIONER

Versus

STATE OF PUNJAB ... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Durga Dutt Sharma, Advocate for the petitioner(s).

Mr.J.S. 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 FIR No. 20, dated 21.10.2023, under Sections 25 and 25 (7) of Arms Act, 1959 and Section 120B of IPC, registered at Police Station SSOC, District SAS Nagar, Mohali.
2. Learned counsel for the petitioner vehemently contends that it is a case of false implication. The petitioner was picked by the police authority on 20.10.2023 from his house at village Ramgarh Budha District SAS Nagar, Mohali in the official vehicle bearing No. PB-65-BE-2358. The co-accused Supreet Singh was also sitting in the said vehicle and this entire incident stated to have been recorded in the CCTV footage has been placed before this Court as Annexure P-2. He further submits that the petitioner is not a habitual offender as he is not involved in any other criminal case.

3. Learned State Counsel on the other hand submits that the

petitioner was arrested on 21.10.2023 and further argued that in the CCTV footage, it is shown that the police party is going towards the house of the petitioner and it cannot be established that he was arrested on that date or not. He has filed the custody certificate of the petitioner, which is taken on record. As per the same, the petitioner has been in custody for 4 months and 17 days and he is not involved in any other case.

4. Looking into the totality of facts and circumstances of the case and submissions made by learned counsel for the respective parties, no role has been attributed to the petitioner, challan stands presented after completion of the investigation on 18.01.2024 and charges are yet to be framed, the petitioner has suffered incarceration for a period of 4 months and 17 days and as regards the issue of CCTV Footage, it is the matter of evidence to be led before the Trial Court which cannot be ascertained by this Court. Further, adjudication on the date which has been questioned qua the petitioner's custody i.e. 20/21.10.2023 cannot be ascertained by this Court.

5. 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 "bail is rule and jail is an exception" which needs to be strictly adhered in view of the allegation against the petitioner which can be culminated even after hearing the State Counsel that Section 120-B has been invoked against him, adding with the fact that the petitioner is not involved in any other

case, meaning thereby the petitioner is not a habitual offender, the petitioner deserves the concession of regular bail.

6. In view of the aforesaid discussions made hereinabove, the petition is allowed and 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. 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

11.03.2024
anuradha

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