

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

**CRM-M-11221-2024
DECIDED ON: 07.03.2024**

RAHUL ALIAS GOLU

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Diwan S. Adlakha, Advocate
for the petitioner.

Mr. B.S. Virk, Sr. DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.633, dated 17.09.2022, under Sections 302, 203, 34 IPC, registered at Police Station Krishna Gate Thanesar, District Kurukshetra.

2. Learned counsel for the petitioner contends that no specific role has been attributed to the petitioner and even no injury whatsoever has been attributed to link him with the commissioning of the alleged offence except a bald statement made by the complainant. It is also asserted that the police arrested the petitioner subsequently on 18.09.2022 and his disclosure statement was recorded on 19.09.2022 with regard to the allegations and role attributed to him as well as other co-accused persons.

3. On the other hand, learned State counsel has produced the custody certificate of the petitioner today in Court, which is taken on record.

He seeks dismissal of the instant petition on the ground that the CCTV

footage collected by the police clearly demonstrates the presence of the present petitioner at the place of alleged occurrence, though the petitioner has denied this very fact as in the CCTV footage, no such act of the petitioner is evident or could be attributed to him for which the provisions of IPC as incorporated in the instant FIR can be attracted.

4. It is the petitioner who has actually called the police and Ambulance on the spot by dialing 100 & 112, from his mobile phone and made all efforts to save the life of the deceased but seems to have been dragged in the instant FIR subsequently as an afterthought merely on the basis of his presence if at all established by CCTV footage, which is part of evidence to be led before the trial Court and thereafter can be established.

5. As far as other aspects are concerned, the petitioner has suffered incarceration for a period of 01 year, 05 months and 19 days after framing of charge on 03.10.2023 and out of total 35 prosecution witnesses, only 08 have been examined so far, which is sufficient enough to infer that conclusion of trial will take a long time, for which the petitioner cannot be detained 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 in ***Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131***, 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 a rule*” and “*jail is an exception*”.

7. In the light of above, 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. In the afore-said terms, 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.

07.03.2024
Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

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