

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-12560-2024
DECIDED ON: 15.03.2024

AMIT BANSAL

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Keshavam Chaudhri, Advocate
for the petitioner.

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

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked for the second time under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.554, dated 30.07.2016 (Annexure P-1), under Sections 406, 419, 420, 465, 467, 468, 471, 409, 120-B IPC, registered at Police Station City Sirsa, District Sirsa.
2. Learned counsel for the petitioner contends that the whole case revolves around the documentary evidence i.e. in the form of official record pertaining to VAT Department wherein the role attributed to the petitioner is that of claiming bogus refund of tax input credit of VAT to the tune of Rs.19,94,000/- on the basis of the C-Form issued by the dealers for the sale of cement, cigarette and tiles etc. He further contends that since the investigation is complete, charges have been framed after presentation of challan, no fruitful purpose would be served by keeping the petitioner behind the bars any further.

3. Learned State counsel has produced the custody certificate of the petitioner today in Court, which is taken on record. Copy thereof has been supplied to the learned counsel for the petitioner as well. He seeks dismissal of the instant petition referring to number of cases in which the petitioner is involved i.e. 14 in number.

4. According to the custody certificate, the petitioner is behind the bars for the last 01 year and 01 day and is involved in multiple cases, wherein the petitioner is on bail in all the cases, as has been averred by learned counsel for the petitioner.

5. Be that as it may, considering the custody period i.e. 01 year and 01 day, for which the petitioner is behind the bars and the fact that charges were framed on 03.01.2024 and out of total 32 prosecution witnesses, none has been examined so far, meaning thereby the trial is not yet commenced.

6. In the light of aforesaid discussions and having gone through the record with the assistance of learned counsel for the petitioner, this Court is obvious of the fact that the petitioner cannot be detained behind the bars for an indefinite period, which would tantamount to violation of principle of criminal jurisprudence i.e. “*bail is a rule and jail is an exception*”, as has been held by Division Bench of this Court in ***Rajinder Singh versus State of Haryana; 2022(2) RCR (Criminal) 85*** apart from the fact that Article 21 of the Constitution of India also includes right of speedy trial and expeditious disposal of the same, as has been laid down in “***Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131***”.

7. 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.

8. 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.

9. In the afore-said terms, the present petition is hereby allowed.

10. 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

15.03.2024

Poonam Negi

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No