

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-13763-2023  
DECIDED ON: 30.01.2024

RAHUL

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Kuldeep Sheoran, Advocate  
for the petitioner.  
  
Mr. Gurbir Singh Dhillon, AAG, 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.528, dated 17.08.2020 (Annexure P-1), under Sections 341, 307, 120-B, 34 IPC, registered at Police Station Barwala, District Hisar.
2. Learned counsel for the petitioner contends that the case put forth by the prosecution is that the petitioner has fired a gun-shot on the complainant with an intention to kill him and on that basis, the present petitioner has been falsely implicated in the present FIR under Section 307 IPC and Section 25 of Arms Act along with other provisions as mentioned in the FIR.
3. On the other hand, learned State counsel has produced custody certificate of the petitioner today in Court, to demonstrate that he has suffered incarceration for a period of 03 years 04 months and 03 days and is involved in four other cases, meaning thereby he is a habitual offender and on that ground, he seeks dismissal of the instant petition and submits that it is a case of no injury.

4. Looking into the totality of the facts and circumstances and also the fact that charges were framed on 08.02.2021; out of total 24 prosecution witnesses, only 12 witnesses have been examined till date added with fact that no useful purpose would be served by keeping the petitioner behind the bars for uncertain period.

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 a rule and jail is an exception*".

6. 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 of the concession of bail.

7. In view of the aforesaid 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.

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.

30.01.2024

Poonam Negi

(SANDEEP MOUDGIL)  
JUDGE

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No