

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

267 CRM-M-16012-2024
DATE OF DECISION: 10.04.2024

RAJU @ BANSI ...PETITIONER

Versus

STATE OF HARYANA ... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr.Salil Dev Singh Bali, Advocate for the petitioner(s).

Mr. G.S.Dhillon, AAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

The jurisdiction of this Court has been invoked under Section 439 Cr.P.C. for grant of regular bail to the petitioner in the case of FIR No. 201, dated 21.07.2018, under Sections 148, 149, 323, 325, 452, 506, 379-B, 120-B IPC (Sections 325 and 120 B added later on), Police Station Khol, District Rewari, Haryana (Annexure P-1).

2. Learned counsel for the petitioner contends that the petitioner was attending trial proceedings on each and every date but on one date i.e. 26.09.2022, he was absent and was not at all intending to evade the process of law. The petitioner is facing incarceration for last 1 year, 3 months and 12 days in the FIR registered under Sections 148, 149, 323, 325, 452, 506, 379-B, 120-B IPC.

3. Learned State Counsel points out that the Trial Court has itself observed in the order dated 01.02.2023 that despite issuance of warrants of arrest against the petitioner, he has not appeared before the Court since 26.09.2022 and he wants to linger on the matter. The absence

of the petitioner was deliberate and intentional.

4. Though the case is one where no sympathy can be prevalent in favour of the petitioner who has remained absent till 24.01.2023. During the course of hearing in the instant petition, the contention of learned counsel for the petitioner is that only on one isolated date the petitioner could not appear before the trial Court though he has been consistently appearing before it and he undertakes that in future on each and every date he will remain present and will not evade the process of law.

5. Custody certificate filed by learned State Counsel is taken on record which reflects that the petitioner has been in custody for last 1 year, 3 months and 12 days under the Sections mentioned above, charges have been framed and on 06.10.2023 challan was filed and the case is now fixed for 09.05.2024 for evidence of prosecution.

6. This Court is of the view that only on one occasion, the petitioner remain absent and in view of the undertaking given before this Court by learned counsel for the petitioner on petitioner's behalf, this Court would consider the case keeping in mind that association would be facilitated to speed up the proceedings wherein the petitioner has already faced incarceration for 1 year, 3 months and 12 days. 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".

Further, out of 23 prosecution witnesses, only 3 has been examined and

that the trial is likely to take time as well as keeping in view the period of incarceration suffered by the petitioner, 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.

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

7. Petition stands disposed of.

(SANDEEP MOUDGIL)
JUDGE

10.04.2024
anuradha

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No