

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

230 CRM-M-17084-2024
DATE OF DECISION: 16.04.2024

VIRENDER ALIAS NIKKU ...PETITIONER

Versus

STATE OF HARYANA ... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr.S.S. Jattan, Advocate for the petitioner(s).

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

SANDEEP MOUDGIL, J (ORAL)

The jurisdiction of this Court under Section 439 Cr.P.C. has been invoked for grant of regular bail to the petitioner in FIR No.61, dated 17.05.2018 under Sections 34, 364, 302, 120-B, 406, 420 IPC and Sections 25 & 29 of the Arms Act registered at Police Station Barara, Ambala.

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case as there is no specific allegations against the petitioner. There is unexplained delay of 12 hours in lodging the FIR and there is no explanation either by the police or by the complainant regarding the said delay. The petitioner is in custody for last 5 years, 1 month and 5 days. It is contended that when the complainant as well as eye witness Ritik Verma were examined during the proceedings of trial, none of them has supported

the case of prosecution. He further submits that all the co-accused have been granted bail by this Court.

Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. According to which, the petitioner is behind bars for the last 5 years, 1 month and 5 days. He has opposed the prayer made in the present petition stating that the petitioner is habitual offender and is also involved in other cases. He fairly submits that the complainant as well as eye witness have turned hostile.

Having heard learned counsel for the respective parties, this Court is of the considered view that since the petitioner has already suffered sufficient period in custody and as per the principle of the criminal jurisprudence, no one should be considered as guilty till the guilt is proved beyond reasonable doubt, whereas in the instant case, trial is prolonged and likely to take long time in the light of the fact that out of 61 prosecution witnesses, only 6 have been examined and detaining the petitioner behind the bars for an indefinite period would amount to violation of Article 21 of the Constitution of India and is against the principle "Bail is a rule, jail is an exception".

As far as pendency of other case is concerned, this Court in various judgments has already observed that pendency of other FIRs involving the accused-petitioner cannot be a predicament to consider the case for anticipatory bail or regular bail, as the evidence of the material involved in those FIRs can be treated in those cases alone and is not material for the instant FIR. Further, that the all co-accused have been granted concession of regular bail, 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.

Petition stands allowed.

(SANDEEP MOUDGIL)
JUDGE

16.04.2024
anuradha

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