

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

220

**CRM-M-19009-2024
DECIDED ON: 24.04.2024**

SHIV KUMAR @ NANI @SHIVAPETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. R.S. Sekhon, Advocate for
Mr. I.S. Dhaliwal, Advocate for the petitioner.
Mr. J.S. Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

This is a petition seeking regular bail in FIR No.147, dated 25.08.2018, under Sections 307/452/506/427/148/149 IPC registered at Police Station City Malout, District Sri Muktsar Sahib.

Learned counsel for the petitioner contends that the petitioner was arrested on 21.09.2023 and is behind bars since then. The petitioner has not been attributed any active role of causing any injury whatsoever. He further asserts that the main accused namely Kanu Grover, who gave fatal blow while hitting the brick gave injuries which were simple in nature and accordingly was extended benefit of interim bail and therefore, interim bail was made absolute vide orders dated 15.01.2019 and 12.02.2019 passed in CRM-M-1401-2019.

Notice of motion.

Learned State Counsel appearing on advance notice accepts the same on behalf of the State and has produced the custody certificate, the same is taken on record. Copy of the same has been supplied to the learned counsel for the petitioner. As per the custody certificate, the petitioner is behind the bars for last 7 months and 4 days. He on

instructions from ASI Jaswinder Singh informs the Court that the petitioner has not been attributed any injury and his role is defined as accompanying the main accused.

In light of the aforesaid facts that the petitioner has not given any injury to the complainant and the main accused Kanu Grover has already been granted anticipatory bail in the year 2019 itself, this Court is of the view that the petitioner has already suffered sufficient time of 7 months and 4 days in custody. Though the filing of supplementary challan got delayed which was presented on 31.10.2023 qua the present petitioner wherein charges were framed on 31.10.2023 and out of total 9 prosecution witnesses, none has been examined so far which is sufficient for this Court to infer that trial will take long time to conclude and on that account, petitioner cannot be detained 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 elucidated in the judgement of Apex Court in “*Dataram Singh vs. State of Uttar Pradesh and another*;; (2018) 3 SCC 22”.

In view of the aforesaid discussions made hereinabove, the petition is disposed of and 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.

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

24.04.2024

anuradha

Whether speaking/reasoned

Whether reportable

(SANDEEP MOUDGIL)

JUDGE

Yes/No

Yes/No