

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-18884-2024
DECIDED ON: 13.05.2024

ARUN SHARMAPETITIONER

VERSUS

STATE OF HARYANARESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Amit Jaiswal, Advocate for the petitioner.

Mr. Chetan Sharma, DAG, 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.91, dated 21.02.2021, under Sections 120-B, 204, 306, 34, 406, 420, 467, 468, 471 IPC, registered at Police Station Meham, District Rohtak.

2. Learned counsel for the petitioner contends that the alleged fraud to the tune of Rs.1.20 crores relates to the year 2016 whereas the statement to that effect came to be registered in the year 2021 and on that account, committing the suicide by the deceased cannot be attributed to the petitioner, which lacks the basic ingredients of Section 306 IPC. He further submits that co-accused of the petitioner, namely Abhimanyu @ Abhi has been granted the concession of regular bail vide order dated 10.04.2024 passed in CRM-M-16759-2024.

3. On the other hand, learned State counsel has produced the custody certificate of the petitioner today in Court, which is taken on record.

He does not controvert the fact that the alleged fraud of Rs.1.20 crores has

taken place in the year 2016 and the present FIR came to be registered at very belated stage i.e. after 5 years.

4. Looking into the totality of facts and circumstances and considering the custody period i.e. 04 months and 24 days, for which the petitioner has suffered incarceration and the fact that the co-accused namely Abhimanyu @ Abhi has been granted the concession of regular bail added with the fact that after presentation of challan, the trial is still pending for framing of charges on 18.09.2024 with the list of 69 prosecution witnesses, meaning thereby, the conclusion of trial will take a long time for which the petitioner cannot be detained behind the bars.

5. In the light of above facts, this Court is sanguine of the fact that according to the proposition settled by the Apex Court in ***Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131***, 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. Therefore, 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.

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

8. 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

13.05.2024

Poonam Negi

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No