

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-19125-2024
DECIDED ON: 17.05.2024

GURPRET SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Ankit Joshi, Advocate
for the petitioner.

Mr. Jasjit Singh Rattu, DAG, Punjab.

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.168, dated 22.11.2023 (Annexure P-1), under Sections 307, 365, 342, 323, 148, 149, 326 IPC and Section 25 of Arms Act, registered at Police Station Sangat, District Bathinda.
2. Learned counsel for the petitioner contends that except from carrying fire arm in his hand, no other overt act has been attributed to the petitioner since it is a case of no injury on any of the injured persons involved in the instant FIR including the complainant.
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 on instructions from ASI Som Parkash, submits that the petitioner has given an injury on the face of the complainant from butt of the pistol but could not corroborate the said assertion from the narrated facts mentioned in

the FIR or any other material collected by the investigating agency. He seeks dismissal of the instant petition on the ground that the petitioner is involved in two more cases, meaning thereby he is a habitual offender.

4. Looking into the totality of facts and circumstances and considering the custody period i.e. 05 months and 09 days for which the petitioner has suffered incarceration and the fact that charges have been framed on 13.05.2024 and out of total 23 prosecution witnesses, none has been examined so far, meaning thereby the conclusion of the trial will take a long time for which the petitioner cannot be detained behind the bars for an indefinite period.

5. 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 land the petitioner in a situation of denial of concession of bail.

6. 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*”.

7. 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.

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.

17.05.2024
Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

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