

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

214 CRM-M-20402-2024
Date of decision: 30.04.2024

Balwinder Singh @ Goli ... Petitioner
VS.
State of Punjab ... Respondent

CORAM: HON’BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Hitesh Chopra, Advocate for the petitioner
(Hybrid hearing)

Mr. JS Rattu, DAG Punjab

Sandeep Moudgil, J.

The petitioner seeks regular bail in case FIR No.20 dated 06.04.2023 under Sections 307/427/506/34 IPC and Section 25 of Arms Act, registered at Police Station Ghanie Ke Banger, Tehsil and District Gurdaspur.

Learned counsel for the petitioner contended that the petitioner has been falsely implicated in the present FIR and claimed his innocence highlighting the fact that during the investigation of the case, the police recorded the supplementary statement of the complainant who nominated Ranjodh Singh in the present case and thereafter on the disclosure statement of the said Ranjodh Singh, the present petitioner has been nominated in the present FIR and as such, he is entitled to concession of regular bail.

It is averred that no specific role has been attributed to the petitioner and the only allegation against him is that he was accompanying the co-accused persons and moreover, there is no recovery of any weapon from the possession of the petitioner nor was any pellets of pistol recovered from the spot which contradicts the statement of the complainant that three fire shot injuries have been given.

Learned State counsel has filed custody certificate dated 29.04.2024 which is taken on record. According to it, the petitioner has undergone 9 months and 27 days of custody since his arrest on 06.04.2023. He opposed the prayer for grant of regular bail on the ground that the petitioner is found involved in three other cases. It is averred that investigation is complete and a total of 17 PWs are to be examined.

Heard learned counsel for the parties and gone through the record.

Taking into consideration the totality of the circumstances particularly the fact that trial in the present case is moving at a snail's pace as is evident from the statement of State counsel that charges have not been framed till date and in that eventuality, it is abundantly clear that it will take certainly long time to conclude the trial, particularly in view of the fact that out of 17 PWs none have been examined so far, and as such 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 elucidated in the judgement of Apex Court in "***Dataram Singh vs. State of Uttar Pradesh and another***, (2018) 3 SCC 22".

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 lend the petitioner in a situation of denial the concession of bail.

Keeping the petitioner inside the jail is clearly violative of speedy trial under Article 21 of the Constitution of India, but the same is likely to take long time being wherein it is at the initial stage after a lapse of considerable time.

Accordingly, the present petition is allowed 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.

30.04.2024
V.Vishal

(Sandeep Moudgil)
Judge

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes/No
Yes/No