

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-20660-2024
DECIDED ON: 02.05.2024

ALOK GOYAL

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Sumit Bhardwaj, Advocate for
Mr. Lupil Gupta, Advocate
for the petitioner.

Mr. B.S. Virk, Sr. 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.09, dated 27.09.2023 (Annexure P-1), under Sections 406, 420, 34 IPC (Sections 467, 468, 471 and 201 IPC, registered at Police Station Cyber Crime, District Sirsa.

2. Learned counsel for the petitioner contends that the petitioner has been nominated as an accused merely on the basis of disclosure statement of co-accused Sumit, who is actually the main accused. He further contends that the petitioner is behind the bars since 12.11.2023 only on the basis of that disclosure statement alone and after taking him into custody, investigating agency has extracted one disclosure statement to show the recovery of Rs.1,75,000/- along with one mobile of motorola, two ATMs of Sumit and 3 ATMs of Davender, which is absolutely a planted recovery upon

him except the money which belongs to him alone. It is further the case of the petitioner that there is no evidence to proof the alleged recovery of Rs.1,75,000/- from the petitioner.

3. Learned State counsel has produced the custody certificate of the petitioner today in Court, which is taken on record. Copy thereof has been furnished to the learned counsel for the petitioner today in Court. He seeks dismissal of the instant petition on the ground that the other co-accused person namely, Sumit has withdrawn his petition for regular bail before this Court on 30.04.2024 and also the petitioner is involved in one more case, meaning thereby, he is a habitual offender.

4. Be that as it may, considering the fact that accused Sumit is the main accused in the instant FIR, who is the mastermind whereas the case of the petitioner is based on the disclosure statement of co-accused Sumit alone and even the alleged recovery is disputed by the petitioner, who has suffered incarceration for a period of 05 months and 19 days behind the bars.

5. In the instant case, investigation stands completed, challan stands presented before the trial Court on 29.01.2024, charges are yet to be framed and thereafter 11 prosecution witnesses are to be examined by the State, which will definitely take reasonably a long time to conclude and on that account, the petitioner cannot be detained behind the bars for an indefinite period.

6. 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.

7. 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*”.

8. 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.

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

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

02.05.2024

Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No