

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

209 CRM-M-20714-2024
DATE OF DECISION: 03.05.2024

RAJESH ALIAS BHONDAR

...PETITIONER

Versus

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Nitish Yadav, Advocate for the petitioner(s).
Mr. B.S.Virk, Sr. DAG, Haryana.
Mr. Deepender Singh, Advocate for the complainant.

SANDEEP MOUDGIL, J (ORAL)

This petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No. 62 dated 18.07.2018 registered under Section 302/506/120-B/34 IPC and under Section 25 of Arms Act, 1959 at P.S. GRP Gurugram, District GRP, Ambala Cantt. (Annexure P-1).

Learned counsel for the petitioner contends that it has been alleged that the petitioner has accompanied the co-accused persons but no specific attribution for commissioning of offence under Section 302/506/120-B/34 IPC is coming forth qua the petitioner who is behind the bars for more than 5 years and 7 months. He further points out that co-accused Devender and Rajesh Gurga @ Ravinder have been granted bail by this Court on 22.02.2024 and 19.04.2024.

Notice of motion.

Learned State Counsel appearing on advance notice accepts the same and has filed the custody certificate of the petitioner, which is

taken on record. According to which, the petitioner is behind bars for the last 5 years, 7 months and 09 days. He has opposed the prayer made in the present petition stating that the petitioner is involved in many other cases which show his past conduct as a habitual offender.

Having heard learned counsel for the respective parties, this Court is of the considered view that since the petitioner has already suffered sufficient period in custody and as per the principle of the criminal jurisprudence, no one should be considered as guilty till the guilt is proved beyond reasonable doubt, whereas in the instant case, trial is prolonged and likely to take long time adding with the fact that co-accused have already been granted bail by this Court and 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.

6. In view of the aforesaid discussions made hereinabove, 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. Petition stands 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

03.05.2024

anuradha

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No