

2024:PHHC:076340



**220 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRM-M-21739-2024
DATE OF DECISION: 28.05.2024**

**CHANDAN ALIAS CHANDI ALIAS MAHLA AND ANOTHER
...PETITIONER**

Versus

STATE OF PUNJAB ... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Arpan Sabharwal, Advocate for the petitioner(s).

Mr. J.S. 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 petitioners in FIR No.26, dated 17.02.2024 (Annexure P-1), under Sections 379-B IPC (Section 411 IPC added later on), registered at Police Station Shahkot, District Jalandhar.

2. Learned counsel for the petitioners contends that there is an unexplained delay of 21 days in lodging the instant FIR. He further submits that the co-accused Ishmael @ Smile has been granted concession of bail after going custody for a period of 2 months and 22 day vide order dated 13.05.2024 passed in CRM-M-22877-2024 and the petitioners are on better footing than the co-accused as no injury with any weapon has been attributed to the petitioners. The petitioners are behind the bars for 3 months and 8 days.



CRM-M-21739-2024

-2-

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 co-accused Ishmael @ Smile has been granted concession of bail whereas the petitioners are on better footing than the co-accused. As per the custody certificate, the petitioner are behind the bars for 3 months and 8 days and are involved in one more FIR.

4. Having heard learned counsel for the respective parties, this Court is of the considered view that since the petitioners has already suffered sufficient period in custody i.e. 3 months and 8 day and the co-accused has already been granted concession of bail 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 in the light of the fact that charges are yet to be framed and 10 prosecution witnesses, are yet to be examined and detaining the petitioners 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".

5. As far as the pendency of other cases and involvement of the petitioners in other case is concerned, the petitioners are on bail in that FIR and reliance can be placed upon the order of this Court rendered in CRM-M-25914-2022 titled as "***Baljinder Singh alias Rock***



CRM-M-21739-2024

-3-

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 the concession of bail.

6. In view of the aforesaid discussions made hereinabove, the petitioners are directed to be released on regular bail on their furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

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

8. The petition stands allowed.

(SANDEEP MOUDGIL)
JUDGE

28.05.2024
anuradha

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