



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

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**CRM-M No.23267 of 2024  
Date of decision : 23.7.2024**

**Vikas Kumar @ Vicky****.....Petitioner****Versus****State of Haryana****.....Respondent****CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL****Present: Mr. Jagmohan Ghumman, Advocate, for the petitioner****Mr. B.S. Virk, Senior DAG, Haryana**

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**SANDEEP MOUDGIL, J (ORAL)**

This petition under section 439 Cr.P.C. has been filed for grant of regular bail to the petitioner in case FIR No.141 dated 31.5.2023, under Section 25 (1-B)(a) of Arms Act, 1959, Sections 171, 399, 402 of the IPC (Sections 171-A, 476, 411, 120-B IPC and Section 29 (b) of Arms Act added later on), registered at Police Station Bhondsi, District Gurugram.

2. Learned counsel for the petitioner would contend that the petitioner was nominated as an accused at a much later stage on the disclosure statement made by co-accused Prince. He would clarify that at the spot total 7 accused were arrested but the petitioner was not among those 7 persons and subsequently on the basis of disclosure statement, he was arrested with the allegations that he supplied pistols to the co-accused persons and apart from that no overt act has been attributed to him in the FIR and even subsequently on conclusion of the investigation.



3. Learned State counsel has produced the custody certificate of the petitioner, which is taken on record. He would submit that the petitioner has supplied 3 pistols to the other co-accused persons as has been disclosed by Prince and challan has been filed against him after finding him guilty during the course of investigation. He would further submit that the petitioner is a habitual offender being involved in 12 other cases of identical nature.

4. Be that as it may, having regard to the submissions made on behalf of the petitioner as well as State, this Court cannot ignore the fact that investigation is complete, challan stands presented and charges are yet to be framed and there are 24 witnesses, who are yet to be examined. This very fact is sufficient to conclude that the trial would take certainly long time whereas the petitioner has already been suffered incarceration of 7 months and 21 days, no other overt act except supply of pistols against the petitioner has come forth, as admitted case of the prosecution. It would be unjust to keep him behind bars looking at the condition of the jails which are not conducive for rehabilitation process and detaining the accused persons in jails would also tantamounts to violation of Article 21 of the Constitution of India including the right to speedy trial, and is against the principle “Bail is a rule, jail is an exception” as elucidated in the judgment 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 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 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. 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 in the aforesaid terms.

**(SANDEEP MOUDGIL)**  
**JUDGE**

**23.7.2024**

*Ashwani*

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No