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

**CRM-M-24505-2024
DATE OF DECISION: 21.05.2024**

SOURAV SANDHU ALIAS SAM ...PETITIONER

Versus

STATE OF PUNJAB ... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Ms. R.K. Grewal, Advocate for the petitioner(s).

Mr. J.S. Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. This second petition under Section 439 of the Code of Criminal Procedure has been filed for grant of regular bail in case/ FIR No. 168 dated 19.11.2023 under Sections 384, 506 of the Indian Penal Code, 1860 and Sections 25, 25(6), 25(7) (i) and 25 (8) of the Arms Act, 1959, registered at Police Station Kot Ise Khan, Moga, Punjab (Annexure P-1)

2. Learned counsel for the petitioner contends that the earlier petition bearing No. CRM-M-7949-2024 filed by the petitioner for grant of bail was dismissed as withdrawn on 21.02.2024. Thereafter charges were framed on 26.04.2024 and the case was listed for examination of the PWs but out of total 50 PWs, none of the PWs has been examined which shows that trial will certainly take time to conclude. The petitioner has not been attributed any injury except alleged recovery of 2



pistols with magazine from the plastic bag held in the right hand of the petitioner. The petitioner has been in custody for almost six months.

3. Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. According to which, the petitioner is behind bars for last 5 months and 26 days and is not involved in any other case. He, on instructions from ASI Nachhattar Singh opposes the grant of bail to the petitioner.

4. Keeping in view the facts that the petitioner has not used the weapon to harm anyone, and he is behind the bars for almost six months and is not involved in any other case, 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 facts that charges are framed on 26.04.2024 and out of 50 prosecution witnesses, none has been examined 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”***.

5. 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.



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

7. The petition stands allowed.

(SANDEEP MOUDGIL)
JUDGE

21.05.2024
anuradha

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