



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

SUSHIL **...PETITIONER**

STATE OF HARYANA ... RESPONDENT

2. Learned counsel for the petitioner contends that the petitioner was not named in the FIR and was specifically named as an accused on the basis of disclosure statement made by co-accused persons namely Vijay and Arjun when they were arrested in another FIR. He further submits that recovery has been planted upon him qua Rs.9000/- and country made pistol along with live around shown from the petitioner but use of any such force is absent. The another aspect which has been brought to the notice of this Court is that the parties have entered into a



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compromise vide compromise deed dated 18.05.2024 which is annexed as Annexure P-3 which is supported by learned counsel for the complainant.

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 6 months and 25 days and seeks dismissal of the petition on the ground that he is involved in other cases also. Apart from that, he could not controvert the factual assertions made by counsel for the petitioner.

4. 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 i.e. 6 months and 25 days and compromise has been effected between the parties supported by counsel for the complainant 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 have been framed on 06.03.2024 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. As far as the pendency of other cases and involvement of the petitioner in other cases is concerned, reliance can be placed upon



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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 of 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. Petition stands disposed of.

(SANDEEP MOUDGIL)
JUDGE

28.05.2024

anuradha

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*