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

CRM-M-26534-2024

DATE OF DECISION: 30.05.2024

HARIOM @ GOURAV

...PETITIONER

Versus

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Nirmal Singh, Advocate for the petitioner(s).
Mr. B.S.Virk, Sr. DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court under Section 439 Cr.P.C., has been invoked for the grant of regular bail to the petitioner in FIR No. 48, dated 01.02.2024, under Sections 379-B/34 of IPC, registered at Police Station Kharkhoda, District Sonipata.

2. Learned counsel for the petitioner contends that the petitioner was not named in the FIR and he was nominated on the basis of disclosure statement made by co-accused. The petitioner is not involved in any other case. He further contends that co-accused Sumit and Sagar have been granted regular bail by the Trial Court. The investigation is complete and challan has been presented on 30.04.2024 and the trial will take time to conclude as out of 12 PWs none has been examined till date.

3. Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. According to which, the



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petitioner is behind bars for last 1 month and 26 days who is not involved in any other case and is not in a position to deny that co-accused Sumit and Sagar have been granted regular bail by the Trial Court.

5. 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, the co-accused-Sumit and Sagar have been granted regular bail by the Trial Court 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 out of 12 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".

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.

(SANDEEP MOUDGIL)
JUDGE

30.05.2024
anuradha

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*