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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-28521-2024
DATE OF DECISION: 03.07.2024

ANKIT ...PETITIONER

Versus

STATE OF HARYANA ... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Pragyat Bhardwaj, Advocate for the petitioner(s).
Mr. S.S. Pannu, Addl. A.G, Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court under Section 439 Cr.P.C., has been invoked for granting regular bail petitioner in case FIR No.93, dated 23.03.2022, Under Sections 148, 149, 302, 307, 427, 452, 506, 120-B of IPC-1860 (Section 212/201 IPC added later on) & under Section 25 of the Arms Act 1959, Police Station Sadar District Palwal, Haryana (Annexure P-1).
2. Learned counsel for the petitioner contends that the name of the petitioner is not mentioned in the FIR and he has been falsely implicated in this case. Further, no over act has been attributed to the petitioner and he is behind the bars for last 4 months and 5 days. He further informs the Court that all material witnesses including the complainant have turned hostile. He points out that co-accused persons have also been granted concession of bail by this Court.
3. Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. According to which, the



petitioner is behind the bars for last 4 months and 5 days. He seeks dismissal of the petition on the ground that the petitioner is involved in other FIRs also but is not in a position to dispute that co-accused persons have also been granted concession of bail by this Court.

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. 4 month and 5 days, co-accused persons have also been granted concession of bail, the petitioner was not named in the FIR and no overt act has been attributed to him. Without adverting to merits of the case that material witnesses have turned hostile, this Court deems it appropriate to grant concession of bail to the petitioner.

5. Further, 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 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. 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



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“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.

7. 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.

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

9. The petition stands allowed.

(SANDEEP MOUDGIL)
JUDGE

03.07.2024
anuradha

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