

2024:PHHC:082982



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-29980 of 2024
DECIDED ON: 4th July, 2024

Sandeep Singh

.....PETITIONER

VERSUS

State of Punjab

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE **SANDEEP MOUDGIL.**

Present: Mr. Prabhjot Singh Waraich, Advocate for petitioner.

Mr. J.S. Rattu, DAG Punjab

SANDEEP MOUDGIL., J (ORAL)

The jurisdiction of this Court has been invoked under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.18, dated 07.02.2022, under Sections 392, 395, 506, 201 IPC and Section 25 of Arms Act, registered at Police Station Kamboj, District Amritsar.

2. Learned counsel for the petitioner contends that even the complainant Vijay Thakur, Manager, Punjab and Sind Bank, Branch Naushara Ball Kalan and other witness namely Charanjit Singh, Peon, Punjab and Sind Bank, Branch Naushara Ball Kalan have turned hostile during the course of prosecution evidence on 11.12.2023, wherein they have been examined as PW-1 and PW-2 respectively. He further contends that the co-accused of the petitioner namely, Rakesh Kumar @ Vicky has been granted the concession of regular bail vide order dated 20.02.2023, passed in CRM-M-32720-2022 and the petitioner has suffered incarceration for a period of two years, four months and four days. Learned counsel for petitioner claims parity with co-accused-

Manjeet Singh.

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3. Learned State counsel has produced the custody certificate of the petitioner today in Court, which is taken on record. He could not controvert the aforesaid fact. He seeks dismissal of the instant petition stating that the petitioner is involved in three other cases.

4. Be that as it may, considering the custody period i.e. two years, four months and four days for which the petitioner has already suffered incarceration behind the bars and the fact that the complainant as well as other witness namely Vijay Thakur, Manager and Charanjit Singh, Peon, Punjab and Sind Bank, Branch Naushara Ball Kalan have turned hostile, as is evident from perusal of statement of PW-1 and PW-2 added with the fact that the conclusion of trial will take a long time, no fruitful purpose would be served by keeping the petitioner behind the bars for an indefinite period.

5. This Court is sanguine of the fact that according to the proposition settled by the Apex Court that keeping somebody behind the bars, till his guilt is proved, for an indefinite period amounts to infringement of his right to life and liberty, as enshrined under Article 21 of Constitution of India and is against the principle “bail is a rule and jail is an exception”.

6. This Court is obvious of the fact that the petitioner cannot be detained behind the bars for an indefinite period, which would tantamount to violation of principle of criminal jurisprudence i.e. “*bail is a rule and jail is an exception*”, as has been held by Division Bench of this Court in ***Rajinder Singh versus State of Haryana***; 2022(2) RCR (Criminal) 85 as well as by the Apex Court in “*Dataram Singh vs. State of Uttar Pradesh & Anr.*”, 2018(2) R.C.R. (Criminal) 131 apart from the fact that Article 21 of the Constitution of

India also includes right of speedy trial and expeditious disposal of the same.

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7. 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 lend 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 her furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

8. In the afore-said terms, the present petition is hereby allowed.

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

4th July, 2024

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(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No