

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-29518-2024
DECIDED ON: 14.06.2024

SONA SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. K.S. Sekhon, Advocate
for the petitioner.

Mr. Jasjit Singh Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. 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.21, dated 25.04.2024 (Annexure P-1), under Sections 324, 323, 148 and 149 IPC (Section 308 IPC added later on), registered at Police Station Amir Khas, District Fazilka.
2. Learned counsel for the petitioner contends that there is an unexplained delay of 02 days in lodging the FIR as the alleged occurrence took place on 23.04.2024 whereas the present FIR has been registered on 25.04.2024. He further contends that no injury has been attributed to the present petitioner and, therefore, Section 308 IPC cannot be attributed to him. He further contends that co-accused of the petitioner namely Balwant Singh has been granted the concession of anticipatory bail by this Court vide order dated 30.05.2024, passed in CRM-M-28280-2024. It has been

submitted on behalf of the petitioner that he is ready and willing to join the investigation and cooperate with the investigating agency.

3. On the other hand, learned State counsel has produced the custody certificate of the petitioner today in Court, which is taken on record. He seeks dismissal of the instant petition urging that the petitioner is involved in three more cases, meaning thereby he is a habitual offender.

4. Be that as it may, considering the fact that no injury has been attributed to the present petitioner and, therefore, Section 308 IPC could not be handy for the State to argue for dismissal of the instant petition and the undertaking given by learned counsel for the petitioner today in Court and the facts that the co-accused of the petitioner namely Balwant Singh has been granted the concession of anticipatory bail by this Court vide order dated 30.05.2024 passed in CRM-M-28280-2024; there is an unexplained delay of 02 days in lodging the present FIR added with the fact that conclusion of trial will take a long time.

5. 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 land the petitioner in a situation of denial of concession of bail.

6. In the light of above facts, this Court is sanguine of the fact that according to the proposition settled by the Apex Court in *Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131*, 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*”.

7. Therefore, 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. 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.

14.06.2024
Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No