



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-30283-2024

DECIDED ON: 04.07.2024

HARJINDER SINGH @ BHOLA

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Suresh Singla, 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.45, dated 06.04.2024 (Annexure P-1), under Section 306 IPC, registered at Police Station Nehianwala, District Bathinda.

2. Learned counsel for the petitioner contends that nothing is to be recovered from the possession of the present petitioner wherein the investigation is complete and challan stands presented to Court on 09.06.2024.

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 a personal assistant of an Ex-MLA Pritam Singh Kotbhai of Punjab Legislative Assembly/Indian National congress who demanded money

against the advertised post in the Fire Brigade Department, Bathinda and the

complainant being interested was duped of Rs.3,50,000/- and thereafter, neither the job was arranged nor the money has been returned. It is under that pressure the grandfather of the complainant, namely Joginder Singh committed suicide of having faced loss of Rs.3,50,000/- being aggrieved against unemployed situation of his grand-son i.e. complainant-Manpreet Singh.

4. Mr. Shubham Gupta, Advocate has put in appearance on behalf of the complainant and filed his Power of Attorney, which is taken on record.

5. Having gone through the contents as narrated in the FIR, I am of the considered view that the essential ingredients to make out a case under Section 306 IPC i.e. instigation and abetment immediately in close proximity to the commissioning of the offence is to be established which is totally missing as neither the time of last instigation or any such overt act on the part of the petitioner nor any kind of attribution in other source is coming forth. It is also not disputed by the State that investigation is complete and challan stands presented to Court as has been argued by learned counsel for the petitioner wherein it would be futile to keep the petitioner behind the bars as nothing is to be recovered from him nor is required for any kind of interaction and out of total 12 prosecution witness, none has been examined so far, meaning thereby the conclusion of the trial will take a long time.

6. Considering the credentials of the petitioner who is not involved in any other case, meaning thereby he is not a habitual offender, he cannot be detained behind the bars for an indefinite period, wherein the trial is not yet commenced and investigation is complete; nothing is to be recovered from the possession of the petitioner.

7. 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*”.

8. 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.

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

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

04.07.2024  
Poonam Negi

(SANDEEP MOUDGIL)  
JUDGE

|                           |        |
|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |