



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

CRM-M-30653-2024

DECIDED ON: 05.07.2024

KULWANT

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Siddarth, Advocate
for the petitioner.

Mr. Chetan Sharma, DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court under Section 439 Cr.P.C., has been invoked seeking regular bail to the petitioner in case FIR No. 5, dated 08.01.2022, under Section 370(5), 34 IPC (Section 81 of Juvenile Justice Care and Protection of Children Act, 2015 added later on), registered at Police Station DLF Phase-III, Gurugram, District Gurugram.

2. Learned counsel for the petitioner contends that nothing has been recovered from the possession of the petitioner and was nominated as an accused only on the basis of supplementary statement of the complainant. He further submits that the petitioner has suffered incarceration of 02 years, 05 months and 16 days. He has drawn attention of this Court to Annexure P-3 (collectively) vide which other co-accused namely Anand Nat and Srikant have already been granted the concession of regular bail by this Court vide orders dated 29.05.2024 and 28.02.2024, passed in CRM-M-25093-2024 and CRM-M-9325-2024, respectively and claims parity.

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 one more case, meaning thereby, he is a habitual offender.

4. Be that as it may, considering the fact that the petitioner has suffered incarceration for a period of 02 years, 05 months and 16 days; the co-accused of the petitioner, namely Anand Nat and Srikanth have already been granted the concession of regular bail by this Court vide orders dated 29.05.2024 and 28.02.2024, passed in CRM-M-25093-2024 and CRM-M-9325-2024, respectively added with the fact that conclusion of trial will take a long time, as out of total 46 prosecution witnesses, only 5 stands examined after framing of charges on 06.08.2022, no useful purpose would be served by keeping the petitioner behind bars for an uncertain period.

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 aforesaid discussion and having gone through the record with the assistance of learned counsel for the petitioner, 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.

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.

(SANDEEP MOUDGIL)
JUDGE

05.07.2024

Poonam Negi

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No