



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

CRM-M-30709-2024

DECIDED ON: 05.07.2024

MOHAMMAD NAEEM

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Kuldeep Chaudhary, Advocate,
Mr. Saurabh Bhatia and Mr. Harish Singh, Advocates and
Mr. Arti Baijoya, Advocate
for the petitioner.

Mr. Chetan Sharma, DAG, Haryana.

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.215, dated 16.05.2022, under Sections 379 IPC (Sections 407, 420, 120-B, 196 and 203 IPC added later on), registered at Police Station Gadpuri, District Palwal, Haryana.

2. Learned counsel for the petitioner contends that the petitioner was not initially named in the FIR but was subsequently roped in the instant FIR only on the basis of disclosure statement of co-accused Fakruddin. He further contends that nothing has been recovered from the possession of the present petitioner. It has been asserted on behalf of the petitioner that his co-accused namely, Irfan has been granted the concession of regular bail by this Court vide order dated 31.01.2023 passed in CRM-M-46705-2022 and co-

accused Mustafa @ Mustak has been granted the concession of regular bail by the trial Court vide order dated 02.12.2023.

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 custody period i.e. 03 months and 27 days for which the petitioner has suffered incarceration; the petitioner has been nominated on the basis of disclosure statement of co-accused Fakruddin; co-accused of the petitioner, namely Irfan has been granted the concession of regular bail by this Court vide order dated 31.01.2023 passed in CRM-M-46705-2022 and co-accused Mustafa @ Mustak has been granted the concession of regular bail by the trial Court vide order dated 02.12.2023 added with the fact that the conclusion of trial will take a long time for which the petitioner cannot be detained behind the bars for an indefinite 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
Whether reportable

Yes/No
Yes/No