



217 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-30919-2024
DECIDED ON: 05.07.2024

GHULLA @ AVINASH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM:HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. A.S. Manaise, Advocate for
the petitioner.

Mr. Jaspal Singh Guru, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Section 439 Cr.P.C., seeking regular bail to the petitioner in FIR No.304, dated 13.11.2023, under Sections 307, 148, 149 of IPC, 1860 and Section 25 and 27 of Arms Act, 1959 (Section 201 of IPC added later on), registered at Police Station Civil Lines Batala, District Batala, Gurdaspur, Punjab.
2. Learned counsel for the petitioner submits that the petitioner has been nominated as an accused on the statement of Robin, though has not been attributed any injury whatsoever. He further submits that investigation is complete and challan stands presented on 09.02.2024, with a list of total 20 prosecution witnesses, charges are yet to be framed.
3. Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. He could not controvert the fact that role attributed to the petitioner is limited to carrying a *datar*, but has not given any injury to the victim. As per the custody certificate produced by learned State counsel, the petitioner has suffered incarceration of 07 months and 20 days.
4. 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 a exception*', as has been held by Division Bench of this Court "***Rajinder Singh versus State of Haryana***", **2022(2) R.C.R. (Criminal) 85** as well as by the Apex Court in "***Dataram Singh versus State of Uttar Pradesh & Another***", **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.

5. Be that as it may, considering the aforesaid facts and circumstances and having heard learned counsel for the parties, this Court of the considered view that the present petitioner, who has already spent 07 months and 20 days in custody, is not involved in any other case and even he is not a habitual offender, as is evident from the custody certificate itself, deserves the concession of regular bail.

6. 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.

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

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

05.07.2024

Anjal

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No

(SANDEEP MOUDGIL)
JUDGE