

2024:PHHC:091019



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-33391-2024
DECIDED ON: 19.07.2024

KAMAL KUMAR

.....PETITIONER

VERSUS

STATE OF HARYANA & ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Joginder Pal Ratra, Advocate
for the petitioner.

Mr. Chetan Sharma, DAG, Haryana.

Mr. Aman Pratap Singh, Advocate
for respondent No.2.

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.919, dated 09.12.2023, under Sections 323/324/341/506/34/120-B IPC, 1860 and (Section 307 IPC added later on), registered at Police Station Civil Lines, District Sirsa.
2. Learned counsel for the petitioner contends that no specific injury has been attributed to the petitioner and accordingly, he was not named in the FIR and only revealed in the supplementary statement made by the complainant after almost 10 days from the date of occurrence. In

addition thereof, learned counsel for the petitioner contends that parties have entered into a compromise vide affidavit dated 15.03.2024 (Annexure P-9).

3. On the other hand, learned State counsel has produced the custody certificate of the petitioner which is taken on record. Copy of the same has been supplied to learned counsel for the petitioner. According to the custody certificate, the petitioner is behind the bars for a period of 06 months and 28 days and is not involved in any other case, meaning thereby, he is not a habitual offender. However, he does not controvert the factum of compromise.

4. Be that as it may, considering the custody period i.e. 6 months and 28 days for which the petitioner has suffered incarceration; co-accused of the petitioner, namely, Ravi has been granted the concession of regular bail by this Court vide order dated 05.07.2024 passed in CRM-M-30954-2024; the parties have entered into a compromise vide affidavit dated 15.03.2024 (Annexure P-9), which has not been controverted by learned State counsel added with the fact that investigation is complete, challan stands presented to Court on 18.02.2024, charges are yet to be framed, meaning thereby, the conclusion of the trial will take a long time for which the petitioner cannot be detained behind the bars for an indefinite period.

5. 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.

6. Hence, 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.

19.07.2024
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(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>