



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

**CRM-M-34963-2024
DECIDED ON: 29.07.2024**

VICKY**.....PETITIONER**

VERSUS

STATE OF PUNJAB**.....RESPONDENT****CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Gagandeep Singh Simble, 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.144, dated 06.07.2023, under Sections 363, 379-B(2), 34, 506 IPC and Sections 25, 27, 54, 59 of Arms Act, registered at Police Station Ranjit Avenue, Police District Police Commissionerate Amritsar, District Amritsar.

2. As per the contents of the FIR, it has been alleged as under:-

"Prabhjit Singh son of Sh. Late Harinder Pal Singh resident of Kothi No.8 new Garden Colony, Amritsar aged about 47 years Mobile No.98766-66000 has stated that I am resident of the above said address and my brother Chatar Singh Jeevan Singh's firm Mai sewa is at Amritsar and we print and sell religious books in the firm. On 05.07.2023 at about 10-30 pm, I along with my wife Kanwar Preet Kaur and my aunt's son Romil Deep Singh and my two sons Parv Grover aged about 16 years and younger son Asankh Grover aged about 14 years in car No.PB02EM-0300 marka XUV 700 were at Haldi Ram Market in Ranjit Avenue Amritsar to have some food. We parked our car in front of the Bay Leaf restaurant and to have some food, I, my wife Kanwar Preet Kaur and my aunt's son Romil Deep Singh alighted from the car and my two sons started telling me that we want to have some food from KFC Ranjit Avenue Amritsar and my elder son Parv

Gorver drove the car and after 15/10 min I got call from my son Parv Grover stated that four boys came to us out of which one was having pistol and entered our car then I pushed them in the car and same out and they took the younger brother Asankh with the car on which I went to KFC restaurant with my wife Kanwar Preet Kaur and my aunt's son Romil Deep Singh at D Block, Ranjit Avenue where by elder son Parv Grover met me and we started looking for my son Asankh. After some time my younger son Asankh drove his car and came to D Block Market who told us that the said 4 boys who took me with the car and the car stopped near In Out Bakery Bypass Ranjit Avenue and they could not start the car so they left me with the car and ran away from Guntala Bypass Amritsar. The above unknown accused took away the car from my boys at gun point and had abducted my younger son Asankh with me as the car is automatic so it could not be driven from the accused that is why they left the car and ran away, now I have come to you with my other relatives. Necessary legal action should be taken."

3. Learned counsel for the petitioner contends that as per the prosecution story, co-accused Parambir Singh @ Nanak who has filed CRM-M-55968-2023 was the kingpin, on whose directions other co-accused Ramandeep Singh snatched the car and the allegation against the present petitioner is that he tried to kidnap the son of the complainant. He further contends that the co-accused of the petitioner, namely, Chander Kumar @ Sandhu @ Chandan Kumar has been granted the concession of regular bail by a Coordinate Bench of this Court vide order dated 28.05.2024 (Annexure P-6) passed in CRM-M-26264-2024. It has been submitted on behalf of the petitioner that he is in custody since 17.08.2023 and nothing has been recovered from the present petitioner to connect him with the alleged incident. In addition thereof, it is also argued that when the petitioner was in custody in FIR No.70, dated 11.07.2023, under Sections 379-B, 109 and 34 IPC and Sections 25/54/59 of Arms Act, registered at Police Station Sadar Gurdaspur,

he was made to suffer a disclosure statement qua his alleged involvement in the instant FIR, which was made under the coercion by the police authorities.

4. 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 on the ground that the petitioner is a habitual offender as he is involved in two more cases.

5. Be that as it may, considering the custody period i.e. 11 months and 08 days for which the petitioner has suffered incarceration; co-accused of the petitioner, namely, Chander Kumar @ Sandhu @ Chandan Kumar has been granted the concession of regular bail by a Coordinate Bench of this Court vide order dated 28.05.2024 (Annexure P-6) passed in CRM-M-26264-2024; nothing has been recovered from the possession of the petitioner added with the fact that challan stands presented to Court on 14.11.2023; charges have been framed on 10.04.2024 and out of total 18 prosecution witnesses, none has been examined so far, meaning thereby, conclusion of the trial will take a long time for which the petitioner cannot be detained behind the bars for an indefinite period.

6. 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

on account of pendency of other cases/convictions in all probability would land the petitioner in a situation of denial of concession of bail.

7. 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.

8. Looking into the totality of facts and circumstances, 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.

29.07.2024
Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

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