

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-3996-2024 in/and
CRM-M-42868-2023
DECIDED ON: 30.01.2024

RAMESH KUMAR

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Himanshu Sharma, Advocate
for the petitioner.

Mr. Gurbir Singh Dhillon, AAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

CRM-3996-2024

1. This is an application for placing on record the additional documents as Annexures P-6 to P-8.
2. For the reasons mentioned in the application, the same is allowed subject to all just exceptions. Additional documents are taken on record as Annexures P-6 to P-8.
3. Application stands disposed of.

CRM-M-42868-2023

1. The jurisdiction of this Court has been invoked for the second time under Section 439 Cr.P.C., for grant of regular bail to the petitioner in FIR No.396, dated 14.09.2022 (Annexure P-1), under Sections 406, 420, 120-B, 467, 468, 471 IPC, registered at Police Station Sadar Pehowa, District Kurukshetra.

2. Learned counsel for the petitioner contends that the petitioner is at party with the other co-accused namely, Harish Kumar and Rameshwar @ Sinder, who have been granted the concession of regular bail by this Court vide order dated 18.01.2024, passed in CRM-M-33396-2023 (Annexure P-7) and CRM-M-36118-2023 (Annexure P-8), respectively.

3. On the other hand, learned State counsel has produced the custody certificate of the petitioner, which is taken on record. According to the custody certificate, the petitioner is behind the bars for the last 01 year, 01 months and 25 days and is involved in one more case i.e. FIR no.218, dated 24.08.2022, under Sections 406, 420, 467, 468, 471, 120-B IPC, registered at Police Station Sadar Ambala, District Ambala. He does not controvert the fact that co-accused of the petitioner have been granted the concession of regular bail.

4. Looking into the totality of facts and circumstances and also the fact that co-accused of the petitioner namely, Harish Kumar and Rameshwar @ Sinder, have been granted the concession of regular bail by this Court vide order dated 18.01.2024, passed in CRM-M-33396-2023 and CRM-M-36118-2023 respectively added with the fact that no useful purpose would be served by keeping the petitioner behind the bars for uncertain period.

5. This Court is sanguine of the fact that according to the proposition settled by the Apex Court that keeping somebody behind the bars, till his guilt is proved, for an indefinite period amounts to infringement of his right to life and liberty, as enshrined under Article 21 of Constitution of India and is against the principle "*bail is a rule and jail is an exception*".

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 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 lend the petitioner in a situation of denial of the concession of bail.

7. In view of the aforesaid discussions made hereinabove, 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.

30.01.2024

Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

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