

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

274-CRM-M-46809-2023

Date of Decision: 14.02.2024

Narinder Kumar

... Petitioner

VS.

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Ashish Grewal, Advocate for the petitioner

Mr. GS Dhillon, AAG Haryana

Sandeep Moudgil, J. (Oral)

This is the seventh petition filed under Section 437(6) read with Sections 482 & 439 CrPC for grant of regular bail to the petitioner in FIR No.643 dated 11.06.2019 (Annexure P-1) under Sections 406/420/120-B IPC (Sections 467/468/471 IPC added later on), registered at Police Station City Jagadhari, District Yamuna Nagar and for setting aside the order dated 24.07.2020 (Annexure P2) passed by Addl. Sessions Judge, Yamuna Nagar.

Learned counsel for the petitioner submits that since the trial of the petitioner was not being concluded within a period of sixty days after framing of charges i.e. on 20.02.2020, the petitioner moved an application for bail under Section 437(6) before the trial court, however, the trial court dismissed the said application vide order dated 15.07.2020. He submits that even the revision petition filed against the order dated 15.07.2020 was dismissed by the Sessions Judge, vide order dated 24.07.2020 (Annexure P2).

It is contended that the petitioner is in custody since 01.07.2019 and is no more required for the purpose of investigation and has deep roots in the society and as such, there is no apprehension of his fleeing from justice. It

is also informed that the police has involved the petitioner in 4 other criminal cases, as detailed in para 18 of the petition, wherein, he is on bail. He submits that the investigation has already been completed; challan presented and charges framed on 07.02.2020 besides no recovery is to be effected from the petitioner and as such no useful purpose would be served by letting the petitioner to remain incarcerated.

On the other hand, learned State counsel has produced the custody certificate of the petitioner dated 14.02.2024, which is taken on record, and in terms thereof, the petitioner has suffered incarceration for a period of 4 years 7 months and 14 days. He further argues that as per the reply dated 30.10.2023 filed by Rajesh Kumar, HPS, DSP-II, Yamuna Nagar, after registration of FIR, the petitioner joined the investigation and during interrogation, he suffered disclosure statements leading to discovery of important facts. The affidavit further deposed that the petitioner is of criminal antecedents inasmuch as four other FIRs of similar offences have been lodged against the petitioner out of which, he has earned acquittal in one case and stands convicted in another case.

It is averred that after completion of investigation, challan was presented on 29.08.2019 and thereafter, charges were framed on 07.02.2020 in the present case, against the petitioner and out of total 21 witnesses, 18 witnesses have already been examined and there being serious allegations against the petitioner, he is not entitled for grant of bail.

The petitioner has already suffered custody for more than 4 years 7 months 14 days and the story of the prosecution is yet to be established by leading cogent evidence added with the fact that the no recovery is to be effected from the petitioner and in such a situation, detaining the petitioner behind the bars for an indefinite period would amount to violation of Article 21

of the Constitution of India and is against the principle “Bail is a rule, jail is an exception” as elucidated in the judgement of Apex Court in “*Dataram Singh vs. State of Uttar Pradesh and another, (2018) 3 SCC 22*”.

Therefore, taking into consideration the totality of the circumstances as also the fact that the trial is likely to take some time, therefore, no fruitful purpose will be served by keeping the petitioner behind bars, this petition is allowed and the petitioner is directed to be released on regular bail on furnishing bail and surety bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate concerned.

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

14.02.2024	(Sandeep Moudgil)
V.Vishal	Judge
1. Whether speaking/reasoned?	Yes/No
2. Whether reportable?	Yes/No