

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

222-CRM-M-46804-2024

Date of decision: 25.09.2024

Sumit @ Babu
... Petitioner

VS.

State of Haryana
... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Gaurav Arora, Advocate for the petitioner

Mr. BS Virk, Sr.DAG Haryana

Sandeep Moudgil, J.

The petitioner has filed the present petition under Section 483 BNSS seeking grant of regular bail in case FIR No.154 dated 20.08.2023 under Sections 379-B/34/506 IPC (Section 323 IPC added later on), registered at Police Station Tigaon, District Faridabad.

Learned counsel for the petitioner contends that he has been falsely implicated in the present case as the alleged occurrence took place on 18.08.2023 at about 9.30 pm whereas the FIR was registered on 20.08.2023 after an inordinate delay of 02 days and the CCTV footage of the liquor vend had not been taken into possession to establish the veracity of the prosecution case. He urged that in fact it was a financial dispute between the petitioner and the complainant which had led to his false implication.

He placed reliance upon the fact that since co-accused to the petitioner, namely, Angad has already been granted the concession of interim protection by the Supreme Court vide order dated 03.05.2024 in SLP (Crl) No.6095/2024 which was made absolute vide order dated 24.07.2024

(Annexures P3 & P4), his case being on similar footing, he is entitled to be granted regular bail in the instant case.

Learned State counsel handed over custody certificate dated 24.09.2024 which is taken on record and in terms thereof, the petitioner has undergone 5 months and 15 days of custody, pending trial. He contends that the petitioner and his co-accused were duly named in the FIR and there are specific allegations against him inasmuch as the petitioner is stated to have taken away Rs.10,500/- from the chest box. He further submits that the challan has been presented on 07.06.2024 and charges are yet to be framed and out of 12 PWs, none have been examined till date.

Heard learned counsel for the parties and gone through the record.

Taking into consideration the totality of the circumstances particularly the fact that trial in the present case is moving at a snail's pace as is evident from the statement of State counsel that charges have not been framed till date and in that eventuality, it is abundantly clear that it will take certainly long time to conclude the trial and also the fact that the co-accused of the petitioner has already been granted regular bail by the Apex Court and as such, 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".

A Division Bench of this High Court in ***Rajender Singh vs. State of Haryana***, 2022(2) R.C.R. (Criminal) 85 has held that a right under Article 21 of the Constitution of India includes right to speedy trial and expeditious disposal which is also in public interest primarily showing concern on a following view point.

- (a) the period of remand and pre-conviction detention should be as short as possible. In other words, the accused should not be subjected to unnecessary or unduly long incarceration prior to his conviction;*
- (b) the worry, anxiety, expense and disturbance to his vocation and peace, resulting from an unduly prolonged investigation, inquiry or trial should be minimal; and*
- (c) undue delay may well result in impairment of the ability of the accused to defend himself, whether on account of death, disappearance or non-availability of witnesses or otherwise.*

Keeping the petitioner inside the jail is clearly violative of speedy trial under Article 21 of the Constitution of India, but the same is likely to take long time being wherein it is at the initial stage after a lapse of considerable time.

Accordingly, the present petition is allowed and 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.

25.09.2024
V.Vishal

(Sandeep Moudgil)
Judge

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes/No
Yes/No