

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
214

CRM-M-56615-2023

DATE OF DECISION: 04.03.2024

KARANBIR SINGH

...PETITIONER

Versus

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr.G.S. Simble, Advocate for the petitioner(s).

Mr. Rajiv Verma, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

The jurisdiction of this Court under Section 439 Cr.P.C., has been invoked for the grant of regular bail to the petitioner in FIR No.19, dated 18.03.2023, under Sections 379-B(2) and 34 IPC, registered at Police Station Jhander, Police District Amritsar Rural, Amritsar.

Learned counsel for the petitioner has contended that petitioner is a young boy of 19 years who was preparing for section in armed forces and even attended the selection process of ITBT. In support, he has attached a copy of the admit card (Annexure P-2) for recruitment on the post of Constable. Apart from that, it is a case set up by learned counsel for the petitioner that the petitioner was nominated as an accused on the basis of one confessional statement made by the main accused-Rajan and the petitioner was not named in the FIR and the same was registered against some unknown persons. He further submits that the petitioner has been implicated in another two more cases as well and

in those cases also the FIR was registered against some unknown persons and while he was in custody in one of those FIRs, he has been implicated in the instant case as well. It is submitted by learned counsel for the petitioner that after confessional statement made by the co-accused, the petitioner has been nominated as an accused in the present case as well.

Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. He opposes the prayer for grant of bail and submits that the petitioner is a habitual offender and is involved in two more cases; mobile phone is yet to be recovered though motorcycle make Splender was recovered from the possession of main accused-Rajan. Apart from that, he could not refer to any incriminating material against the petitioner.

Learned Counsel for the petitioner has referred to the order Annexure P-4 to submit that the custody certificate has not been correctly prepared by the Jail Superintendent as the petitioner is on bail in FIR No. 25 dated 12.04.2023 and on the basis of the confessional statement, the petitioner has been nominated in the instant case as well.

Having considered the aforesaid submissions and the stand of the learned State Counsel who could not produce any incriminating witness against the petitioner except the involvement of the petitioner in two more cases. A perusal of the custody certificate further depicts that the petitioner is behind the bars for 10 months and 16 days. Investigation is complete and charges have been framed on 20.11.2023. The prosecution has cited 9 witnesses, out of which none has been examined so far. The petitioner cannot be put behind the bars for an indefinite period, which would amount 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 rule and jail is an exception”. It is the basic principle of criminal jurisprudence that until or unless guilt is proved, no body can be punished. 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 the concession of bail.

In view of the above discussions made hereinabove, the petitioner is ordered to be released on bail subject to his furnishing personal and surety bonds to the satisfaction of Trial Court/Duty Magistrate concerned.

The present petition is allowed in view of afore-said terms.

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

(SANDEEP MOUDGIL)
JUDGE

04.03.2024
anuradha

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