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

**CRM-M No.1759 of 2021 (O&M)
Decided on: 12.10.2021**

Kamaldeep Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. J.S. Dadwal, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

CRM-33537-2021

Prayer in this application is for preponing the date fixed in
the main petition.

Counsel for the petitioner has submitted that main case was
adjourned for 25.11.2021 as it was stated by counsel for the State that
the petitioner is involved in one another FIR registered under Section
376 IPC.

Counsel for the petitioner has placed on record a judgment
dated 12.09.2021 passed by the Additional Sessions Judge, Ludhiana,
vide which the petitioner was acquitted in the aforesaid FIR as the
prosecutrix did not support the case.

Heard.

For the reasons stated in the application, the same is

allowed and the main case is taken up today for hearing.

CRM-M-1759-2021 (O&M)

Prayer in this 3rd petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.49 dated 22.03.2017, for offence punishable under Sections 302, 201, 34 of the Indian Penal Code (in short 'IPC') (Section 346 IPC stands deleted) registered at Police Station Division No.4, District Ludhiana.

The earlier one were dismissed as withdrawn and this 3rd petition for grant of regular bail to the petitioner has been filed on the ground that the petitioner is in custody for the last 04 year and 06 months.

Counsel for the petitioner has argued that as per the allegations in the FIR, Vinod Kumar made a statement that his elder daughter namely Priya was married to the present petitioner. On 11.02.2017, she has come to meet the complainant and on 13.02.2017, she left the house of the complainant on the pretext that the petitioner i.e. her husband has to go to Hoshiarpur. Later on, when the complainant made a phone call on 14.02.2017 and asked the petitioner to have a word with his daughter, the petitioner told him that his wife has already left the house last evening. Later on, a missing report was registered and the scooter of the deceased Priya was found parked at Bust-stand on 16.02.2017. Thereafter, on suspicion that the petitioner has illegally confined his wife somewhere, the present FIR was registered under Section 346 IPC.

Later on, the complainant recorded a supplementary

statement on 16.04.2017 with the allegations that the marriage of his daughter was performed with the petitioner in the year 2010 and one daughter was born out of this wedlock, however later, his daughter has filed a divorce petition against the present petitioner but on persuasion of the petitioner, she reconciled and started living back with the petitioner. It is further stated that the behaviour of the petitioner never changed and he was rude with the complainant's daughter. Some incidents of the intervening period were also give in the FIR, which make the complainant to believe that his daughter has been killed by the petitioner in a pre-planned manner.

Counsel for the petitioner has argued that it is a case of circumstantial evidence and the dead body of the deceased Priya was never recovered though there are allegation that it was thrown in a Kane canal by the petitioner and his parents. It is further submitted that 12 PWs including the complainant have been examined and there are total 23 PWs and it will take long time in conclusion of the trial and the custody of the petitioner is more than 4 years and 06 months. It is also submitted that there is no fault on the part of the trial Court as the *de novo* trial was started after some accused were granted anticipatory bail, who were again put to trial.

Counsel for the petitioner has relied upon the order dated 07.10.2021 passed in **SLP (CrI.) No.5617 of 2021** titled as “***Tapan Das vs Union of India***”, wherein the Hon'ble Supreme Court *taking into consideration the fact that the accused was in custody and suffered incarceration for a period of 04 years and there is no likelihood of conclusion of the trial in near future granted regular bail to the*

accused. It is further submitted that even in the present case, the petitioner is in custody for the last 04 years and 06 months and the trial is not likely to be concluded as 11 prosecution witnesses are yet to be examined and thereafter, the petitioner has to lead the defence evidence, as well.

Counsel for the State on the basis of the affidavit of the Investigating Officer has not disputed the factual position but opposed the prayer for bail. However, it is submitted that the complainant has supported the prosecution version.

After hearing the counsel for the parties, without commenting anything on merits of the case, considering the fact that the petitioner stands acquitted in the other case; he is in custody for the last 04 years and 06 months and in view of the judgment of the Hon'ble Supreme Court in *Tapan Das's case (Supra)* and also the fact that conclusion of the trial is likely to take some time as 11 PWs are yet to be examined, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

12.10.2021

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Whether speaking/reasoned
Whether reportable:

Yes/No
Yes/No