

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

207

**CRM-M-34895-2021
Decided on : 01.09.2021**

Gulab Nath

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

(Through Video Conferencing)

PRESENT: Mr. Amit Arora, Advocate
for the petitioner.

VIKAS BAHL, J. (Oral)

The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No. 60 dated 08.06.2021 under Sections 379-B(2), 34 IPC, 1860 (Section 201 IPC added later on) registered at Police Station Mohakampura, District Amritsar.

Learned counsel for the petitioner has submitted that in the present case, the alleged occurrence is of 27.05.2021 even as per the prosecution case but the complaint in the said case has been given by the complainant on 08.06.2021 i.e. after a period of 13 days from the date of the alleged occurrence. A reference has also been made to the statement dated 09.06.2021 (Annexure P-2) which is a statement of ASI Rajbir Singh under Section 161 Cr.P.C. to highlight the fact that as per the said statement, the complainant had informed the police that the 3 accused persons, including the present petitioner were standing at Challi Khu Bagan near Chowk and they could be apprehended. In the statement, it has

been mentioned that on the basis of the above information, three persons including the present petitioner were apprehended and the complainant Nirmaljit Kaur had identified all the said 3 persons. A reference has also been made to the statement dated 09.06.2021 (Annexure P-3) of the said complainant Nirmaljit Kaur which is stated to be also under Section 161 Cr.P.C. and in complete contradiction of the statement made by ASI Rajbir Singh. It is pointed out that in fact the complainant has stated that she was present in her house and she received a phone call from the police stating that the petitioner has been arrested and she was requested to come and identify him.

Learned counsel for the petitioner has also submitted that the petitioner is not involved in any other case and as per the custody certificate, which is taken on record in the Court today, he has already undergone two months and 17 days of actual custody and challan has already been presented. Charges have not yet been framed and there are 17 witnesses and thus the trial is likely to take long time.

Notice of motion.

On the asking of the Court, Mr. P. S. Walia, Asstt. A. G., Punjab, appears and accepts notice on behalf of the respondent. He has opposed the bail application and states that there is CCTV camera footage as per which, the accused has been identified by the complainant. However, learned State counsel could not dispute the fact that the present case has been registered after a delay of 13 days. Further, he has not disputed the fact that the challan has been presented, the petitioner is not

involved in any other case and there are 17 witnesses and charges have not yet been framed.

Learned counsel for the petitioner, in rebuttal to the arguments advanced by learned State counsel with respect to the CCTV Camera, has submitted that the said aspect is a matter of trial and there will be heavy onus on the prosecution to prove the admissibility, relevance and the authenticity of the same.

This Court has considered the arguments of both the learned counsel for the parties. Admittedly there is a delay of 13 days in registration of the FIR. No explanation has come forth for the said delay inasmuch as even the complaint was made on 08.06.2021 by the complainant with respect to the alleged incident that took place on 27.05.2021. There is a contradiction in the statements of ASI Rajbir Singh as well as of the complainant Nirmaljit Kaur which have been recorded on 09.06.2021. The petitioner is not involved in any other case.

Without commenting on the merits of the case and keeping in view the fact that the petitioner has been in custody for more than two months and the trial of the case is likely to take a long time, the petitioner is directed to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

Accordingly, the present petition is allowed.

(VIKAS BAHL)
JUDGE

01.09.2021

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