

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

207

CRM-M-8098-2022 (O&M)

Decided on : 20.05.2022

Renu Bala

. . . Petitioner

Versus

State of Punjab

. . . Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. H. S. Dhindsa, Advocate
for the petitioner.

Mr. M. S. Nagra, AAG, Punjab.

VIKAS BAHL, J. (Oral)

CRM-8871-2022

Allowed as prayed for.

Annexure A-1 is taken on record subject to all just exception.

Main Case

This is the third petition filed under Section 439 of Cr.P.C. for grant of regular bail to the petitioner in case FIR No. 13 dated 24.01.2020 under Sections 323, 326, 307 and 506 of the Indian Penal Code, 1860 registered at Police Station Sarabha Nagar, District Ludhiana.

Learned counsel for the petitioner has submitted that the petitioner is the daughter-in-law of the complainant/injured and has two minor children and has been in custody since 24.01.2020 and there are

as many as 11 witnesses out of whom, 4 witnesses have been examined and 7 witnesses are yet to be examined and thus, the trial is likely to take time. It is further submitted that there is no doctor's opinion declaring any injury to be dangerous to life. It is contended that the first bail application of the petitioner was dismissed as withdrawn on 14.05.2020 and the second regular bail application was dismissed by a coordinate Bench of this Court on 29.07.2020. It is submitted that after 29.07.2020, 3 private witnesses i.e. the complainant, the husband of the complainant and the son of the complainant have been examined and thus, no question of influencing the said witnesses arises. It is contended that the total custody of the petitioner is more than 2 years, 3 months and 20 days.

Learned counsel for the petitioner ha relied upon the judgment of the Division Bench titled a ***Balraj Jagdish Chopra Vs. State of Punjab*** reported a ***2021 (2) Law Herald 1230***, wherein, under similar circumstances, in a case where the earlier bail application was dismissed by giving detailed reason, subsequently, the third regular bail application of the petitioner therein was allowed. Reliance has also been placed upon a judgment of a coordinate Bench of this Court in ***Satish Kumar Vs. State of Haryan*** reported a ***2021 (3) Law Herald 2660***. It is further submitted that the petitioner did not approach the Hon'ble Supreme Court after passing of the order dated 29.07.2020 by the coordinate Bench of this Court dismissing the second regular bail application of the petitioner.

Learned State counsel, on the other hand, has opposed the present application for regular bail and has submitted that the petitioner inflicted injuries with a wooden bat on the head of her mother-in-law and on account of the said injury, as per the FIR, even blood had come oozing out from the forehead of her mother-in-law.

This Court has heard learned counsel for the parties and has perused the paperbook.

The petitioner has been in custody since 24.01.2020 i.e. 2 years, 3 months and 20 days approximately. There are as many as 11 witnesses out of which, 4 witnesses have been examined and 7 witnesses are yet to be examined and thus, the trial is likely to take time. The petitioner is stated not to be involved in any other criminal case and is a lady with two minor children to take care of. The first bail application of the petitioner was dismissed as withdrawn on 14.05.2020 and the second bail application was dismissed by a coordinate Bench vide order dated 29.07.2020. It is submitted by learned counsel for the petitioner that the said order was not challenged before the Hon'ble Supreme Court. Even after the passing of the said order, a period of more than 1 year and 9 months has elapsed. The private witnesses i.e. the complainant and the husband of the complainant have been examined after 29.07.2020 and thus, the question of influencing the private witnesses does not arise and the same also constitutes a substantial change in circumstance, after the passing of the order dated

29.07.2020. The Division Bench of this Court in **Balraj Jagdish Chopra (supra)** has held as under:

"First petition-CRM-M-10053-2019 filed by the petitioner for grant of regular bail was dismissed vide order dated 08.05.2019 and his second petition-CRM-M-4343-2020 for grant of regular bail and application CRM-14982-2020 for grant of interim bail were dismissed vide order dated 11.08.2020 by this Court. The petitioner has now filed third petition for grant of regular bail in view of the change of circumstances.

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No doubt, the previous petitions filed by the petitioner were dismissed by this Court vide orders dated 08.05.2019 and 11.08.2020 for detailed reasons mentioned therein but one of the important fact is that in a Magisterial trial which could attract maximum sentence of 7 years, the petitioner has already undergone detention of more than 2 years. Although, the trial had commenced with framing of charges on 17.05.2019 but has not progressed at all despite expiry of more than one and a half years since then and not a single prosecution witness has yet been examined. Evidently in the facts and circumstances of the case, trial is likely to take long time particularly in view of the restrictions imposed to prevent spread of infection of Covid-19. The right to speedy trial is a fundamental right and the same cannot be denied even to the petitioner on the ground of his previous mis-conduct which does not warrant his continued detention till conclusion of the trial even if the same gets delayed. The petitioner has now stated in categorical terms that the petitioner would not abscond and influence the prosecution witnesses. The petitioner has also undertaken not to leave the country without

prior permission of the Court and to abide by the terms and conditions regarding his presence during the trial.

Keeping in view the nature of accusation and evidence against the petitioner and the totality of the facts and circumstances of the case, but without meaning to express any opinion on merits of the case as the same may prejudice either of the parties, we are of the considered view that the concession of regular bail may now be extended to the petitioner."

A perusal of the above judgment would show that in the abovesaid case, the earlier bail application of the petitioner therein had been dismissed by giving detailed reasons but subsequently, the concession of regular bail was granted keeping in view the custody of the accused therein and also keeping in view the fundamental right of an individual to a speedy trial. To a similar effect is the judgment of this Court in ***Sukhjit Singh @ Bawa and others Vs. State of Punjab and another*** in ***CRM-M-50109 2021*** which is reproduced hereinbelow:-

"This Court feels that there is a stark difference between filing of subsequent/successive regular bail applications or application for suspension of sentence and filing of subsequent/successive anticipatory bail applications. In the case of regular bail applications, where a person is in custody, any subsequent regular bail application filed, even after the first has been withdrawn, would normally be considered, since, the factum of "further custody" would normally be a changed circumstance. It is always open for an accused

who is in custody to show that his further incarceration for some months/years is a changed circumstance, entitling him to regular bail. To exemplify, in case, a person is accused of an offence for which the maximum sentence is 10 years and his first bail application, which was filed after two years of custody, has been rejected. that person can always come after a year or after a substantial period of time and the Courts could well grant relief to the accused on the ground of "period of custody". In the subsequent regular bail applications, it could always be shown that there was a delay in the trial or that some material witness has demolished the case of the prosecution. There could be several factors in addition to long incarceration, which could be raised in the subsequent regular bail applications, which would come within the meaning of subsequent circumstances, so as to grant the relief to the accused therein. Similar would be the position in the case of suspension of sentence. However, the case of anticipatory bail cannot be treated to be on the same pedestal."

Keeping in view the abovesaid facts and circumstances, moreso, in view of the custody period of the petitioner and also, the law laid down in the judgment of the Division Bench of this Court, the present petition is allowed and the petitioner is ordered to be released on bail on her furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate and subject to her not being required in any other case.

However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

(VIKAS BAHL)
JUDGE

20.05.2022
Mehak

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No