

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-16388-2022
Date of decision : 28.04.2022

Gurpreet Singh @ Gopi @ Panch

... Petitioner

Versus

State of Punjab

... Respondents

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Rishu Mahajan, Advocate
for the petitioner.

Mr.Sarabjit Singh Cheema, AAG, Punjab.

VIKAS BAHL, J.(ORAL)

This is a third bail application under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.104 dated 20.08.2020 registered under Sections 363, 370(4), 120B IPC at Police Station Division no.4, Jalandhar.

The present FIR was lodged on the complaint of one Roshan Kumar who stated that on 20.08.2020, he had taken Khushboo Devi, wife of his brother Deepak Singh, to the Civil Hospital, Jalandhar as she was expected to deliver a child. The said Khushboo Devi delivered a male child at about 12.50 PM. The doctor informed the complainant party that they will have to arrange blood for the child and the child would be examined at the children's ward. The child was ultimately taken to the children's ward and the nurse present there informed that the child has been kept in the machine.

Thereafter, the complainant along with his aunt went to get the file prepared

and when they came back, the child was not there. It was alleged that the child had gone missing due to negligence of the doctor and nurses. An FIR was lodged on the account of the same. Investigation was carried out in the present case. The present petitioner Gurpreet Singh @ Gopi was apprehended after the CCTV footage was seen in which a bolero car bearing registration no.PB08CG-2473 was spotted and after checking the ownership of the same, the owner was identified and it was further found that two persons had taken the child in the said car and said two persons were Gupreet Singh @ Gopi and Gurpreet Singh @ Pita. Further, present petitioner Gurpreet Singh @ Gopi in his disclosure statement stated that he along with Gurpreet Singh @ Pita had got a new born child from Civil Hospital, Jalandhar, which was handed over to them by Kiran, who was working as Sweeper in the hospital. It was further stated that the child had been handed over to coaccused Davinderjeet Kaur @ Aman and her alleged husband Ranjit Singh @ Rana by Gurpreet Singh @ Gopi (present petitioner) and Gupreet Singh @ Pita. It was found that Sweeper Kiran, who was on duty on 20.08.2020 in the children's ward, had kidnapped the new born child and had handed him over to said two persons. Further, as per the prosecution case, the child was recovered from Davinderjit Kaur from a rented accommodation at Mandir Balmiki, Village Khurshaidpur Colony. The said Davinderjit Kaur is stated to be still in custody. During further investigation, it has been found that one Rekha Khanna resident of Ludhiana, had asked Davinderjit Kaur to arrange a new born baby for which she promised to pay Rs.4 lacs to Davinderjit Kaur. Then, Davinderjit Kaur talked to Kiran who was working as a Sweeper in the children's ward at Civil Hospital, Jalandhar, to make arrangements of a new baby and offered

her Rs.80,000/- for the said act.

Learned counsel for the petitioner has submitted that the co-accused/Kiran, who was the sweeper, had taken the child from the children's ward as well as Rekha Khanna, on whose asking the child was kidnapped, have already been granted the concession of regular bail by a Co-ordinate Bench of this Court, vide order dated 12.10.2021, passed in CRM-M-38014 of 2020 and CRM-M-39642 of 2020, respectively. It is further submitted that the present petitioner has been in custody since 21.08.2020 and the challan has been presented and there are 24 witnesses, none of whom have been examined yet, thus, the trial is likely to take time. Learned counsel for the petitioner has further submitted that after withdrawal of the earlier bail petition on 06.01.2022, Gurpreet Singh @ Peeta, whose case is almost on a similar footing as the present petitioner, was granted regular bail by this Court vide order dated 07.04.2022 passed in CRM-M-13883-2022 and has also submitted that even after 06.01.2022, the trial has not made any progress inasmuch as, no witness has been examined inspite of a lapse of more than 3 months and 20 days.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that the present petitioner along with Gurpreet Singh @ Peeta were seen in the CCTV camera and had handed over the child to Davinderjit Kaur, who had to further give the child to Rekha Khanna as Rekha Khanna had promised to give money to said Davinderjit Kaur for delivering a male child to her.

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

It is not in dispute that the petitioner is not named in the FIR

and primarily, allegations have been levelled against co-accused Rekha Khanna. It is not in dispute that the child has been recovered from Davinderjit Kaur and the said Davinderjit Kaur, as per the prosecution case, had promised Rekha Khanna to deliver a male child to her for monetary consideration. It is further apparent from the prosecution version, that it is was the co-accused/Kiran, who was working as a Sweeper and picked up the child from the hospital and both the said co-accused Kiran and Rekha Khanna, have already been granted the concession of regular bail by a Co-ordinate Bench of this Court in CRM-M-38014-2020 and CRM-M-39642-2020, respectively. The case of the petitioner is on a better footing than that of co-accused Kiran and Rekha Khanna. Moreover, the petitioner has been in custody since 21.08.2020 and the challan has already been presented in this case and there are 24 witnesses, none of whom have been examined, thus, the trial is likely to take time. Further, the petitioner is not involved in any other case. This is the third regular bail petition filed by the petitioner and the second petition was withdrawn on 06.01.2022, at that stage and on 06.01.2022 the trial Court was directed to expedite the trial. It is submitted that even inspite of lapse of more than 3 months and 20 days, there has been no progress in the trial inasmuch as, neither charges have been framed nor any witness has been examined. The co-accused of the petitioner, i.e. Gurpreet singh @ Peeta has also been granted regular bail by this Court vide order dated 07.04.2022 passed by this Court in CRM-M-13883-2022 and the case of the petitioner is almost on a similar footing as that of Gurpreet Singh @ Peeta. The said circumstances are substantial subsequent circumstances so to entitle the petitioner to file the present third regular bail petition.

Keeping in view the facts and circumstances, the present petition is allowed and petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate and subject to his not being required in any other case.

It is made clear, in case, the petitioner threatens or influences any witness, it would be open to the State to move an application for cancellation of the present regular bail granted to the petitioner.

However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court 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

April 28, 2022
Davinder Kumar

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