

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

SR. No.213

**CRM-M-21977-2022 (O&M)
Date of Decision:11.10.2022**

Harpreet Singh @ Prince

...Petitioner

Versus

State of Punjab

...Respondents

CORAM: HON'BLE MR. JUSTICE N.S. SHEKHAWAT

Present: Mr. Sanjeev Kumar, Advocate,
for the petitioner.

Ms. Himani Arora, AAG, Punjab.

N.S. SHEKHAWAT, J. (Oral)

CRM-37301-2022

For the reasons mentioned in the application, the same is allowed. The evidence of complainant and his wife is taken on record as Annexure P-4 (colly).

CRM-M-21977-2022

The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of bail pending trial in FIR No.0017 dated 27.01.2022 under Sections 306/201 IPC registered at Police Station Civil Lines, Batala, District Batala, Punjab.

The FIR in the instant case was got registered by Manga Singh son of Balwant Singh by alleging that his daughter Gurpreet Kaur @ Mamta was married with the petitioner about 05 years ago and out of the said wedlock, one daughter aged about 03 years and one son aged about 1½ years were born. His daughter Gurpreet Kaur @ Mamta used to visit at Jammu to meet him. The in-laws of his daughter used to beat her and she

informed the complainant many times in this regard and she also told him that she would commit suicide after taking some poisonous substance. The complainant tried to make her understand. At about 06.00 AM on 26.01.2022, the complainant received a telephonic call that her daughter Gurpreet Kaur @ Mamta died due to vomiting and diarrhea. On this, the complainant along with his family members came and got the instant FIR registered against the petitioner.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the instant case under political pressure. He further submits that there was no evidence to connect the petitioner with the alleged offence and his wife, i.e. the deceased had died a natural death on account of vomiting and diarrhea. He next submits that the petitioner is in the custody since 27.01.2022 and his further custody would serve no meaningful purpose. He further contends that even 04 witnesses out of total 11 witnesses have been examined and conclusion of the trial may taken quite long time. He also referred to the testimonies of PW-1 complainant (Manga Singh) and his wife PW-2 Amarjit Kaur (mother of the deceased), who had turned hostile and had not supported the case of the prosecution. Still further, learned counsel submitted that even from the contents of the FIR, no offence under Section 306 IPC is made out against the petitioner and only general and vague allegations have been levelled against him. He, thus, prays for acceptance of the present bail petition.

On the other hand, learned counsel for the State has vehemently opposed the bail petition on the ground that the petitioner is the main accused and he does not deserve the concession of grant of regular bail.

I have heard the learned counsel for the parties and considered the rival contentions made by them

The Hon'ble Supreme Court in **Sanjay Chandra Vs. CBI, 2011(4) RCR (CrI) 898** held as follows:-

“14) In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it can be required to ensure that an accused person will stand his trial when called upon.

The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.

From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some un-convicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, 'necessity' is the operative test.

In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances. Apart from the question of prevention being the object of a refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any Court to refuse bail as a mark of disapproval of former conduct whether the accused has been convicted for it or not or

to refuse bail to an un-convicted person for the purpose of giving him a taste of imprisonment as a lesson.

XXX XXX XXX XXX XXX

XXX XXX XXX XXX

26) When the undertrial prisoners are detained in jail custody to an indefinite period, Article 21 of the Constitution is violated. Every person, detained or arrested, is entitled to speedy trial, the question is : whether the same is possible in the present case. There are seventeen accused persons. Statement of the witnesses runs to several hundred pages and the documents on which reliance is placed by the prosecution, is voluminous. The trial may take considerable time and it looks to us that the appellants, who are in jail, have to remain in jail longer than the period of detention, had they been convicted. It is not in the interest of justice that accused should be in jail for an indefinite period. No doubt, the offence alleged against the appellants is a serious one in terms of alleged huge loss to the State exchequer, that, by itself, should not deter us from enlarging the appellants on bail when there is no serious contention of the respondent that the accused, if released on bail, would interfere with the trial or tamper with evidence. We do not see any good reason to detain the accused in custody, that too, after the completion of the investigation and filing of the charge-sheet.

This Court, in the case of State of Kerala Vs. Raneef (2011) 1 SCC 784, has stated :-

"15. In deciding bail applications an important factor which should certainly be taken into consideration by the court is the delay in concluding the trial. Often this takes several years, and if the accused is denied bail but is ultimately acquitted, who will restore so many years of his life spent in custody? Is Article 21 of the Constitution, which is the most basic of all the fundamental rights in our Constitution, not violated in such a case? Of course this is not the only factor, but it is certainly

one of the important factors in deciding whether to grant bail. In the present case the respondent has already spent 66 days in custody (as stated in Para 2 of his counter-affidavit), and we see no reason why he should be denied bail. A doctor incarcerated for a long period may end up like Dr. Manette in Charles Dicken's novel A Tale of Two Cities, who forgot his profession and even his name in the Bastille."

In the instant case, the petitioner is in custody since 27.01.2022; investigation is complete in all respects and the challan has already been presented. The prosecution has failed to show that the accused/petitioner is in a position to influence the witnesses or may abscond from the process of law and thus, his further custody would serve no meaningful purpose.

Taking into consideration the totality of the facts and circumstances and without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail pending trial on his furnishing bail bonds and surety to the satisfaction of the concerned trial court/Duty Magistrate/Chief Judicial Magistrate.

However, it is made clear that the above observations have been made only for the limited purpose of deciding the present regular bail petition and the same would not be construed to be an expression of opinion on the merits of the case.

(N.S. SHEKHAWAT)
JUDGE

11.10.2022
mks

Whether Speaking/Reasoned: YES / NO

Whether Reportable: YES / NO