

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-37078-2022

Date of Decision: 26.08.2022

Sikander Singh

... Petitioner

VS.

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. DS Virk, Advocate for the petitioner

Mr. Chetan Sharma, AAG Haryana

Sandeep Moudgil, J. (Oral)

The petitioner has filed the instant petition before this Court with a prayer to grant regular bail to him in case FIR No.373 dated 05.11.2019 (Annexure P-1) registered under Section 392 IPC at Police Station, Civil Lines, Sirsa, District Sirsa.

The above-said FIR was registered on the basis of complaint made by Avtar Singh son of Darshan Singh alleging that at about 01.00 AM on the intervening night of 4-5/11/2019, the complainant along with his friend Tony were going on motorcycle and when they reached near Women Police Station, five occupants of one Verna Car waylaid them and after pushing them, the motorcycle was snatched from them. Pursuant to the said application moved by the complainant, the FIR in the instant case was registered under Section 392 IPC.

Learned counsel for the petitioner has vehemently contended that the petitioner was arrested in the instant case on 15.05.2022 and is in custody since then. He further submits that the investigation in the present case has been completed and challan has been presented in the court of competent jurisdiction on 11.07.2022 and for charges, the case is pending for

01.09.2022. No prosecution witness has been examined so far. He further submits that the offence is exclusively triable by the Court of Magistrate. It is, thus, submitted that no useful purpose would be served by keeping the petitioner.

Learned counsel for the State has vehemently opposed the bail application on the ground that one more case i.e. FIR No.348/2020 under Sections 323/324 IPC registered at PS Sadar Sirsa had already been registered against the present petitioner 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 (Crl) 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 unconvicted 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.

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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."

Learned counsel for the petitioner has pointed out that the petitioner has undergone 3 months and 12 days of custody and there is no other case pending against him. It is submitted that in the other case pointed by the State, the petitioner has been granted bail vide order dated 21.07.2022.

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.

26.08.2022
V.Vishal

(Sandeep Moudgil)
Judge

1. Whether speaking/reasoned?
2. Whether reportable?

Yes/No
Yes/No