

CRM-M-45329 of 2022

Date of Decision : 15.12.2022

GURJIT SINGH @ MANI

...Petitioner

Versus

STATE OF PUNJAB

....Respondent

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. Jasmeet Singh Ghumman, Advocate for the petitioner.

Mr. Ayush Sarna, AAG, Punjab.

Mr. Mohd. Yousaf, Advocate and
Mr. Abdul Aziz, Advocate for the complainant.

B.S. Walia, J. (Oral)

[1] Prayer in the fourth petition under Section 439 Cr.PC. is for grant of regular bail to the petitioner during pendency of trial in case FIR No.128 dated 13.11.2020, registered under Sections 323, 324, 341 and 34 IPC (Sections 325 and 326 IPC added later on) at Police Station City Nakodar, District Jalandhar, Rural.

[2] Learned Counsel contends that the petitioner has been in custody ever since the date of his arrest on 29.04.2021 and out of 18 prosecution witnesses only the complainant has been examined, consequently, the trial is likely to take considerable period of time, therefore, the petitioner be released on bail as no useful purpose would be served by detaining him in custody.

[3] Per contra, the prayer for bail is vehemently opposed by the learned AAG as well as the learnedcounsel for the complainant by contending that the petitioner draggedthe complainant out from his car

and inflicted an injury with *datar* on the left side of the head of the complainant, besides, took a sum of Rs.50,000/- which the complainant was carrying and which had fallen down and fled from the spot. Learned counsel contends that the injury on the complainant is on the head which is a vital part of the body and the said head injury has been declared as grievous in nature after radiological examination on account of being fracture of frontal and left parietal bone. Learned Counsel further contend that the petition for regular bail filed by the petitioner before the learned Sessions Court was dismissed vide order, Annexure P/2 dated 04.06.2021 whereafter vide order, Annexure P/3 dated 14.10.2021, CRM-M No.26276 of 2021 filed before this Court, was dismissed as withdrawn with liberty to the petitioner to file a fresh petition at the appropriate stage after examination of the complainant in accordance with law, if the circumstances of the case, so warranted. Learned counsel further contend that thereafter CRM-M No.45079 of 2021 filed by the petitioner was also dismissed as withdrawn vide order, Annexure P/4 dated 25.11.2021 on the statement of counsel for the petitioner that he did not press the petition and would file a fresh petition, if the circumstances of the case so warranted in terms of order dated 14.10.2021 in CRM-M No.26276 of 2021 after examination of the complainant. Learned counsel further contend that thereafter CRM-M No.3966 of 2022 was again dismissed as withdrawn vide order, Annexure P/5 dated 27.05.2022 with liberty to the petitioner to approach the learned trial Court in accordance with law in view of the complainant having been examined.

[4] Learned AAG as well as counsel for the complainant further while referring to the examination of the complainant attached as

Annexure P/6 contend that there is no change in the circumstances so as

to warrant filing of a fresh petition and the complainant has reiterated the stand as taken by him leading to registration of the FIR. Learned counsel rely on the decision of Hon'ble the Supreme Court in ***Kalyan Chandra Sarkar vs. Rajesh Ranjan @ Pappu Yadav, 2004 (7) SCC 528*** by contending that it is not open to the petitioner to seek bail merely on ground of custody of 3.5 years or on the ground that there is no likelihood of the trial being concluded in the near future while ignoring the gravity of the crime. Learned counsel further contend that although an accused has a right to make successive application for bail but in the instant case there are no fresh grounds so as to persuade a different view to be taken and that in the instant case, no fresh circumstances have been shown so as to warrant taking of a view different than the earlier view rejecting the petition for bail. Learned counsel also refer to a decision of Hon'ble the Supreme Court in ***Satender Kumar Antil vs. Central Bureau of Investigation and another 2022 AIR (SC) 3386*** to contend that at best the petitioner is entitled to a direction to the learned trial Court to conclude the trial expeditiously while keeping in mind the provisions of Section 309 and Section 436-A CrPC.

[5] I have considered the submissions of learned counsel for the parties as also the orders passed by the learned Sessions Court as well as this Court, besides, the statement of the complainant Annexure P/6 and in the circumstances am of the view that on account of the serious nature of allegations on account of the petitioner having stopped the car of the complainant and dragged him out from the same and inflicted injury on his head with *datar which injury has been* declared as grievous in nature after radiological examination on account of being fracture of frontal and left parietal bone, besides, having run away with Rs.50,000/- which the

complainant was carrying and no change in circumstances having been pointed after the dismissal of the earlier petitions for bail, mere period of custody of one year and eight months or the likelihood of the trial not being concluded in the near future, does not warrant exercise of the jurisdiction of this Court to grant regular bail.

[6] Accordingly, in view of the position noted above, the fourth petition seeking regular bail is dismissed. However, while dismissing the petition for regular bail I am conscious of the sacrosanct right of the petitioner to a speedy trial in terms of Article 21 of the Constitution of India. Therefore, while dismissing the petition for regular bail, I deem it proper to request the learned trial Court to examine the prosecution witnesses as expeditiously as possible while keeping in view the mandate of Sections 309 and 436-A of the Cr.PC as well as the decision of Hon’ble the Supreme Court in Satender Kumar Antil’s case, preferably within six months from the date of receipt of certified copy of this order.

[7] Nothing stated hereinabove shall be construed as an expression of opinion on the merits of the case and the position as noted above is only for the purpose of deciding the instant petition only.

[8] Dismissed with the aforementioned directions.

(B.S. Walia)
Judge

15.12.2022
'Amit'

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