

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

CRM-M-18123-2023

Date of Decision: November 20, 2023

DEVENDER SINGH @ SUNNY

.....Petitioner

Versus

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Baldev Singh Badhran, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

The petitioner has filed the present petition under Section 439 CrPC seeking regular bail in his fourth attempt in case FIR No.198 dated 13.06.2020 registered under Sections 302, 323, 34 and 379-B IPC but after investigation offence is found under Section 304 of IPC, P.S. Ladwa, District, Kurukshetra (Haryana).

2. As per case of prosecution, on 29.05.2020 at about 8.30 A.M., Sumer Chand (since deceased) was going to his fields. On the way, he was beaten by accused-petitioner Devender Singh as a result of which he became unconscious. After sometime, he regained consciousness and found that Devender Singh had taken away his gold ring and Rs.2000/- from his purse. Thereafter, somehow Sumer Chand reached near house of his son where Raj Pal, father of accused-petitioner came and tried to throttle his neck. Sumer Chand raised alarm, upon which, his son Gurmej Singh and his wife came and

Ramesh Chand and Kuldeep came there who were threatened to be killed by Devender Singh. Sumer Chand was taken to LNJP Hospital, Kurukshetre, from where, he was referred to Government Medical College and Hospital, Sector-32, Chandigarh. On 01.06.2020, police recorded statement of Sumer Chand, on the basis of which the FIR under section 323, 379-B, 34 IPC was registered at Police Station Ladwa. During treatment Sumer Chand expired on 13.06.2020, upon which, offence under section 302 IPC was added in the FIR. However, during investigation, police deleted offence under sections 323,302 and 379-B IPC and added offence under section 304 IPC in the FIR.

3. Learned counsel for the petitioner inter alia contends that when Sameer Chand-deceased was initially examined at LNJP hospital, Kurukshetra, his medico legal report does not reflect any grave injury. Thereafter he was referred to Government Medical College and Hospital Sector 32, Chandigarh. On 01.06.2020, the Police recorded his statement on the basis of which FIR under Section 323, 379-B and 34 IPC was registered at P.S. Ladwa, Kurukshetra. Sameer Chand-deceased had expired on 13.06.2020 during undergoing treatment at PGI, Chandigarh. The investigating agency after completion of trial has filed the final report under Section 304 IPC and offence under Section 302 was deleted. The petitioner is behind the bars since 13.08.2020. Learned counsel further submits that now the co-accused namely Rajpal Singh has been summoned under Section 319 CrPC and a such the trial would commence de novo and further incarceration of the

petitioner for indefinite period militates against the mandate of Article 21 of Constitution of India which guarantees a right of speedy trial to the petitioner.

4. Per contra, learned State counsel opposes the grant of regular bail to the petitioner on the ground that there are specific allegation against the petitioner and he is involved in a heinous crime. The petitioner is also involved in two complaint cases and one case under Section 323, 324 and 452 IPC. He is not entitled to be released on regular bail.

5. Having heard learned counsel for the parties and after perusing the record, it transpires that Rajpal Singh co-accused has now been summoned under Section 319 CrPC. Resultantly, the charges have to be framed afresh and the trial would commence de novo. The custody certificate provided by learned State counsel indicates that the petitioner is behind the bars for the last 3 years, 3 months and 5 days as on 17.11.2023.

6. The foundational concept of the criminal jurisprudence is to ensure speedy trial. The Hon'ble Supreme Court has repeatedly reiterated that right to speedy trial is enshrined in Article 21 of the Constitution of India. Speedy trial would cover investigation, enquiry, trial, appeal, revision and retrial etc. i.e. everything starting with the accusation against the accused and expiring with the final verdict of the last court.

7. It has further been held in law that if a person is deprived of his liberty under a procedure which is not reasonable, fair, or just, such deprivation would be violative of his fundamental right under Article 21

of the Constitution of India. The procedure so prescribed must ensure speedy trial for determination of the guilt of such person. Some amount of denial of personal liberty cannot be avoided, but if the period of deprivation pending trial becomes excessively long, the fairness guaranteed by Article 21 of the Constitution of India would come into play.

8. In this regard, reference is being made to the law laid down by the Hon'ble Supreme Court in the context of right to speedy trial under Article 21 of the Constitution of India on the following decision:-
“Akhtari Bi Vs. State of M.P.”, (2001) 4 SCC 355, **“Surinder Singh Alias Shingara Singh vs. State of Punjab”**, (2005) SCC (Crl) 1674, **“P. Ramachandra Rao vs. State of Karnataka”**, (2202) 4 SCC 578, **“Babu Singh and others vs. State of U.P.”**, (1978) 1 SCC 579, **“Takht Singh and others vs. State of M.P.”**, (2001) 10 SCC 463; Special Leave to Appeal (Crl) No.2356 of 2010, **“Kushal Singh vs. State of U.P.”** (2JJ.) and **“Fazal vs. State of Uttar Pradesh”**, (2012) 5 SCC 752.

9. Keeping in view the facts and circumstances of the case especially the custody of three years and three months, further incarceration of petitioner without trial being concluded in near future may not be justified. Accordingly, the present petition under Section 439 CrPC is allowed and petitioner is directed to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/trial Court.

10. The present petition seeking regular bail to the petitioner is allowed solely on the ground of long custody already undergone by him and without commenting on the merits of the case lest it may prejudice the outcome of the case pending before the trial Court.

11. Nothing observed hereinabove shall be construed as an expression of opinion of this Court on the merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

20.11.2023
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(HARPREET SINGH BRAR)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>