

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-17726-2023 (O&M)
Date of decision: 14.07.2023

Prince Khan @ Prince Mohammad

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. G.S. Nahel, Advocate
for the petitioner.

Mr. Teevar Sharma, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this 2nd petition is for grant of regular bail in FIR No.203 dated 14.07.2019 under Sections 302, 34 IPC, registered at Police Station Bhawanigarh, District Sangrur; earlier one was dismissed as withdrawn on 14.03.2022.

Learned counsel for the petitioner submits that new ground for filing this second petition is that the petitioner is in custody for the last about 04 years and still the case is at the stage of recording the prosecution evidence and out of total 28 prosecution witnesses, 05 PWs have been examined and 19 are yet to be examined.

Learned counsel has referred to a judgment dated 28.03.2023 passed in **Crl. Appeal No.943 of 2023 [Mohd. Muslim @ Hussain Vs. State (NCT of Delhi)]**, wherein the following observations were made: -

“Before parting, it would be important to reflect that laws which impose stringent conditions for grant of bail, may be necessary in public interest; yet, if trials are not concluded in time, the injustice wrecked on the individual is immeasurable. Jails are overcrowded and their living conditions, more often than not, appalling. According to the Union Home Ministry’s response to Parliament, the National Crime Records Bureau had recorded that as on 31st December 2021, over 5,54,034 prisoners were lodged in jails against total capacity of 4,25,069 lakhs in the country²⁰. Of these 122,852 were convicts; the rest 4,27,165 were undertrials.”

Learned counsel submits that the FIR was registered at the instance of one Jagtar Khan with the allegations that petitioner Prince Khan @ Prince Mohammad caught hold of his brother Jagsir Khan and co-accused Aslam Khan @ Assa gave kirch blow on the chest of Jagsir Khan, on which he shouted for help and when the people gathered, the accused ran away and the victim was taken to hospital, where he was declared dead.

It is further submitted that statements of complainant Jagtar Khan and Jamila have already been recorded as PW1 and PW2, who are main witnesses, therefore, there is no possibility of tempering with the prosecution

evidence. It is also submitted that out of total 28 prosecution witnesses, only 05 PWs have been examined and 19 are yet to be examined and the petitioner has no antecedents of involvement in any other case and considering the fact that his custody is 03 years, 11 months and 24 days i.e. about 04 years and also in view of **Mohd. Muslim @ Hussain**'s case (supra), the petitioner may be released on bail.

Learned State counsel has filed the custody certificate, which reflects that the petitioner is in custody for the last 03 years, 11 months and 24 days and on instructions from ASI Surjit Singh, could not dispute that the petitioner is not involved in any other case.

It is worth noticing here that a report was sought from the trial Court about the reasons for delaying the trial and as per the report dated 24.05.2023, charges were framed on 18.11.2019 and due to COVID-19 situation, case was adjourned from March, 2020 to 31.05.2021 and for the first time, case was fixed for prosecution evidence on 22.05.2022. It is also stated that out of total 29 prosecution witnesses, 07 PWs have been examined, some have been given up and 11 PWs are yet to be examined. It is further stated that total pendency of cases with the trial Judge is 2560, out of which, there are 476 sessions trials under NDPS Act, 11 under P.C. Act and 220 trials under IPC, therefore, due to aforesaid reasons, the Court cannot give short adjournments and some times, witnesses could not appear.

After hearing learned counsel for the parties, without commenting

anything on merits of the case and considering the fact that the petitioner is in long custody; he is not involved in any other case and is first offender; both main private prosecution witnesses i.e. complainant and the eyewitness have already been examined and only the official witnesses remain to be examined and in view of judgment of the Hon'ble Supreme Court in **Mohd. Muslim @ Hussain's** case (supra) and also in view of the request made by the trial Court that because of huge pendency of cases/trials, short adjournments are not possible, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

[**ARVIND SINGH SANGWAN**]
JUDGE

14.07.2023
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No