

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-39267-2023 (O&M)
DECIDED ON: 20.10.2023

GURPREET SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Hitesh Verma, Advocate
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

The jurisdiction of this Court under Section 439 Cr.P.C., has been invoked for the second time for the grant of regular bail to the petitioner in FIR No. 368 (Annexure P-1), dated 22.08.2022, under Sections 419, 420, 465, 466, 467, 468, 471, 177 and 120-B IPC, registered at Police Station City Barnala, District Barnala.

The role of the petitioner as well as the crux of the dispute can be narrated as has been depicted in the FIR, which reads as under:-

“Letter No. 432 dated 22 08.2022. From: Vijay Singh Dadwal, PCS, Judicial Magistrate First Class, Barnala (UID NO. PB0478). To, The SHO, P.S City-II Barnala. Subject:- To register FIR against (1) Gurpreet Singh son of Kirpal Singh, resident of Khuddi Kalan, Barnala, (2) Harnek Singh son of Jangir Singh, resident of Ward No. 2, Sanghera (Numberdar), (3) Bant Singh son of Karam Singh, resident of BV999, Raikot Road, Gandhi Nagar, Ward No. 8, Barnala and (4) Naresh Kumar son of Dev, resident of B-XI/2664, Ram Bagh Road, Street No. 1, Barnala, Tehsil and District Barnala. This is for your information and necessary action that on dated 22.08.2022, in case titled as

"Naresh Kumar Versus Ajaib Singh", bearing CNR NO. PBBR03-005216-2022 and CIS No. CRM/993/2022, accused Naresh Kumar (No. 4 above) tried to furnish his bail bonds and surety bonds in this Court in compliance of order of suspension of his sentence passed by the Court of Sh. Devinder Kumar Gupta, Learned Additional Sessions Judge, Barnala in case titled as Naresh Kumar Versus Ajaib Singh bearing CRA No. 66 of 2022 on dated 27.07.2022 and dated 12.08.2022. In the same, Gurpreet Singh (No. 1 above) stood as his surety by impersonating himself as Mohinder Singh son of Shamsher Singh, resident of Gali No. 4, Sekha Road, Barnala and by furnishing forged and fabricated Aadhar Card of that name and Harnek Singh (No. 2 above) and Bant Singh (No. 3 above) stood as witnesses to identify said Gurpreet Singh as Mohinder Singh. The surety bonds upon checking found suspicious and upon verification and after strictly asking from surety Mohinder Singh, he admitted that his name name is Gurpreet Singh and not Mohinder Singh and he also produced his original Aadhar Card and PAN Card in that name. Hence, it is apparent that the above named persons in order to cheat this court and for release of accused Naresh Kumar on bail, furnished forged and fabricated documents i.e Aadhar Card and Gurpreet Singh impersonated as Mohinder Singh and produced the jamabandi in the name of Mohinder Singh, supported with a wrong affidavit affirming ownership over the property given as surety for the release of accused. Therefore, the above named persons have committed an offence under the relevant provisions of Indian Penal Code. Hence you are hereby directed to register an FIR against the following persons:- 1 Naresh Kumar son of Dev, resident of B-X1/2664, Ram Bagh Road, Street NO. 1, Barnala, Tehsil and District Barnala (Accused himself). 2. Gurpreet Singh son of Kirpal Singh, resident of Khuddi Kalan, Barnala (Surety) (Impersonated himself as Mohinder Singh son of Shamsher Singh, resident of Gali No. 4, Sekha Road, Barnala. 3. Harnek Singh son of Jangir Singh, resident of Ward No. 2, Sanghera

(Numberdar). (Witness), 4. Bant Singh son of Karam Singh, resident of BV999, Raikot Road, Gandhi Nagar, ward No. 8, Barnala. (Witness) along with any other person found involved with them in the commission of crime, for the offence of impersonation, cheating, forgery and furnishing wrong information to the Court for the release of accused on bail along with others relevant provisions of law. You are further directed to send one copy of FIR to this court, immediately. Copy of the documents produced by the above stated persons is attached herewith, whereas the originals of the same are attached in file of case titled as "Naresh Kumar Versus Ajaib Singh", bearing CNR NO. PBBR03-005216-2022 and CIS No. CRM/993/2022 and the same can be procured from there. It is for your further information that Reader of this Court has been authorized to pursue the present case on the registration of FIR for further proceeding."

Learned counsel for the petitioner vehemently contends that the petitioner has been falsely implicated in the present case. From a bare perusal of the FIR, it reveals that the petitioner is not the beneficiary and the case is triable by the Magistrate. He further submits that the person who procured Aadhaar Card, which was forwarded to the petitioner, on the basis of which he appeared as surety, namely Karamjit Singh @ Sarpanch is admitted on bail by this Court vide order dated 13.10.2023 and also that since the dismissal of earlier petition on merits, no prosecution witness has been examined so far out of total 9 prosecution witnesses. He on strength on such background urges that the circumstances have again given a cause of action to approach this Court.

On the other hand, learned State counsel has produced the custody certificate of the petitioner, which is taken on record. According to the custody certificate, the petitioner is behind the bars for the last 1 year 1 month and 25 days.

He contends that the earlier petition was dismissed on merits by the Court

considering all the merits, which are now being raised for considering his case for regular bail at this stage for the second time.

Be that as it may, this Court is sanguine of the fact that the order dated 17.04.2023, was passed on merits declining the regular bail observing that the allegations qua furnishing the bail and surety bonds of accused Naresh Kumar, wherein the petitioner has impersonated himself as Mohinder Singh were serious in nature and the element of cheating as enshrined under Section 419 IPC were prima facie made out and on that account, the bail was declined, wherein the custody part was also on the much lower side and the case was at initial stage just after framing of charges.

Today the fact that no witness has been examined even till date by the prosecution, and the custody already suffered by the petitioner i.e., 1 year 1 month and 25 days incarceration and also the fact that Karamjit Singh @ Sarpanch, who procured the Aadhaar Card, which was used by the petitioner for impersonation as Mohinder Singh has been granted the bail on 13.10.2023, has not been denied by the learned State counsel.

Looking into the totality of facts and the discussions made hereinabove, this Court is of the firm view that in all probabilities the trial will take long time, in the light of the fact that none of the witnesses have been examined so far, no useful purpose would be served by keeping the petitioner behind bars for indefinite period. This Court shall also borne in mind that the 'Bail is a rule and jail is an exception', therefore, it would amount to violation of the principle of right to speedy trial as has been envisaged under Article 21 of Constitution of India, as has been held in a judgment rendered by the Apex Court in ***Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131.***

In view of the above, the petition stands allowed and the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, concerned.

20.10.2023

(SANDEEP MOUDGIL)
JUDGE

Poonam Negi

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No