

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

205

CRM-M-52156-2023 (O&M)

Date of decision: 06.12.2023

GURMEET SINGH ALIAS MICKY**...Petitioner****VERSUS****STATE OF PUNJAB AND ANOTHER****...Respondents****CORAM : HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Mr. Ruhani Chadha, Advocate
for the petitioner.

Mr. Arun Gupta, AAG, Punjab.

DEEPAK MANCHANDA, J.(ORAL)

This is the third petition filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.60, dated 12.05.2019 under Sections 34, 427, 436 & 457 of IPC, registered at Police Station Jodhewal, District Ludhiana. Earlier bail petitions filed by the petitioner were withdrawn vide orders dated 28.09.2020 and 12.12.2022.

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. It is alleged that the instant FIR was registered on the statement of Sohan Lal (complainant), he has constructed rooms for labourers for rent and he resides with his younger brother Rajan Kumar. On 11.5.2019 at 10:00 PM, complainant along with his brother had gone to purchase cigarettes, after locking the house and when they came back, they noticed that door of house was broken and entire house was burning. Thereafter, they called the Fire brigade authorities, who doused the fire after one hour. From CCTV footage, complainant came to know that

two boys were roaming in the street at that time and one of them was holding bottle and they broke the door and entered the house and after sometime, they ran away and then there was huge spark in the house. Due to fire in the house, articles of house burnt. From CCTV footage, complainant came to know that the boys who broke the door of his house and set the fire were Gurmit Singh (petitioner) and Parminder Singh. The motive behind the occurrence was that Gurmit Singh was having bad intention towards maternal niece-Manju of the complainant. Learned counsel submits that the petitioner is in custody since 24.06.2019 and the investigation has already been concluded wherein challan stands presented on 21.08.2019 and charges have been framed on 27.04.2021 and till date only 04 prosecution witness out of total 15 prosecution witnesses have been examined. He further submits that the conclusion of trial will take sufficient time and keeping in view the long incarceration wherein trial is not progressing. Therefore, the petitioner be enlarged on bail.

On the other hand, learned State counsel assisted by Investigating Officer has opposed the prayer made by learned counsel for the petitioner and has filed the status Report dated 06.12.2023 by way of affidavit of Sumit Sood, PPS, Assistant Commissioner of Police (North), Ludhiana on behalf of respondent No.1-State and submits that the allegations levelled against the petitioner are serious in nature. However, he has not disputed the fact that challan stands presented and charges have been framed and out of total 15 prosecution witnesses only 04 prosecution witnesses have been examined till date. Learned State counsel further submits that the petitioner is a habitual offender and there are 17 other cases registered against him wherein in 04 FIRs-he has been acquitted of the charges, in 08

FIRs-he has been convicted and trial is pending in 05 FIRs and there is every likelihood that he will misuse the concession of regular bail. The co-accused of the petitioner, namely, Parminder Singh @ Pamma has already been declared proclaimed person vide order dated 17.05.2022 by Judicial Magistrate First Class, Ludhiana.

I have heard learned counsel for the parties and gone through the entire case file and custody certificate dated 05.10.2023 filed by the learned State counsel. Petitioner is in custody since last 04 years 03 months and 14 days. The investigation of the case has been completed, challan stands presented, charges have been framed and out of total 15 prosecution witnesses only 04 prosecution witnesses have been examined till date. Keeping in view of the custody and the zimni orders annexed with the petition where trial is not progressing, conclusion of trial would take sufficient time. Therefore, no useful purpose would be served in keeping the petitioner in further incarceration. Reference in this regard be made to ***Sanjay Chandra v. CBI, Criminal Appeal No.2178, 2179, 2180, 2181 and 2182 of 2011 (arising out of SLP (Crl.) No. 5650 of 2011***, wherein in Para No.14 it has been observed as under:-

“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 un-convicted 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 unconvicted person for the purpose of giving him a taste of imprisonment as a lesson."

Further, there are 17 more cases registered against the present petitioner yet as per settled law laid down by the Apex Court in “**Maulana Mohd. Amir Rashadi Vs. State of U.P. and Others**” reported 2012 (2) SCC 382 and “**Prabhakar Tewari Vs. State of U.P. and another**” reported 2020 (11), SCC 648, it is the facts of the present case which are required to be considered for the purpose of deciding the present bail application.

As such, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioner. Therefore, without making any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate, if not required in any other case.

The petition is allowed.

December 06, 2023
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(DEEPAK MANCHANDA)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No