

CRM-M-2786-2024
Date of decision: 24.01.2024

...PETITIONER

V/S

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR J. (ORAL)

The present petition has been filed under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No.155 dated 07.08.2021 registered under Sections 364/34 of Indian Penal Code (and Sections 302/201 IPC added later on) registered at Police Station Bhawanigarh, District Sangrur.

2. Brief facts of the case are that on 08.08.2021, police officials of Police Post Gharachon got secret information that on 01.08.2021, Arshadeep Singh along with his brother-in-law Sony Singh and cousin brother Gurdeep Singh in connivance with each other had given beatings to one boy of village Gurdialpura at chowk in village Akbarpur and then they had abducted that boy and they did so as that boy was having illicit relations with Sarabjit Kaur, who was married at Gurdialpura and on that day, all accused persons were present at village Sangheri and they could be apprehended on raid. On the basis of that information, accused were nominated in case and raid was conducted at the disclosed place and accused were apprehended and they disclosed their names

as Arshdeep Singh, Sony Singh and Gurdeep Singh and they were

arrested in the case and during interrogation, they disclosed that they in connivance with each other, gave beatings to Ramjit Singh and he was abducted along his motorcycle no.PB-48C-4924 with an intention to kill him and he was taken in between villages Bughra and Mander and was thrown in canal along with his mobile, rod and iron pipe and they could disclose about that place and they also disclosed during interrogation that the motorcycle of Ranjit Singh and their motorcycle were taken to village Sangheri and same were kept concealed in their house and they could get it recovered. On the basis of disclosure statement, said motorcycles were got recovered. Thereafter, said police officials at the instance of accused persons, reached at the place where Ramjit Singh was thrown in canal. One iron rod was recovered with the help of diver. The custody of Arshdeep Singh being juvenile was given to his father Leela Singh.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner is behind the bars since 08.08.2021 and he is not involved in any other case and is having clean antecedents. As per the case set up by the prosecution, the main accused is Arshdeep Singh and he has been acquitted by the learned Judge, Juvenile Justice Board, Sangrur vide judgment dated 21.08.2023. The petitioner is not even named in the FIR and he has been nominated on the basis of secret information and similarly situated co-accused namely Gurdeep Singh has also been granted the concession of regular bail by a Co-ordinate Bench of this Court vide order dated 12.12.2023, in case bearing CRM-M No.51342 of 2023.

4. Per contra, the learned State counsel, on instructions from ASI Major Singh, opposes the grant of regular bail to the petitioner on the ground that he is involved in a heinous crime, however, he could not controvert the fact that other co-accused namely Arshdeep Singh has been acquitted by the

learned Judge, Juvenile Justice Board and petitioner is not involved in any other case.

5. A two Judge Bench of Hon'ble Supreme Court in '**Satender Kumar Antil v. CBI**' (2022) 10 SCC 51, with respect to prevailing conditions of undertrial prisoner in India has observed:

“6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other.”

6. Having heard learned counsel for the parties and after perusing the records of the case, it transpires that the petitioner has already undergone a total custody of 02 years, 05 months and 14 days as on 23.01.2024 and trial of the case has not made much progress as only 08 out of 22 prosecution witnesses have been examined so far and 08 witnesses have been given up. As such, 06 witnesses are yet to be examined. The gist of the allegations contained in the prosecution case indicates that the co-accused Arshdeep Singh had kidnapped the deceased and beaten him up as his sister was having illicit relationship with the deceased. The petitioner was not even named in the FIR.

Culpability, if any, would be determined at the time of the trial. No useful purpose would be served by further detention of the accused-petitioner. Keeping the petitioner in further detention, without the prospect of the trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India.

7. Keeping in view the facts and circumstances of the case, the present petition is allowed without commenting upon the merits of the case lest it may prejudice the outcome of the trial and the petitioner-Soni Singh is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

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

January 24, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No