

CRM-M No. 4922 of 2024 1

2024:PHHC:017241

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M No. 4922 of 2024

Date of Decision: 07.02.2024

Sona Singh @ Sonu

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rahul Garg, Advocate for the petitioner.

Mr. Subhash Godara, Addl. AG, Punjab.

HARPREET SINGH BRAR, J.(ORAL)

1. This is third petition filed under Section 439 of Code of Criminal Procedure praying for grant of concession of regular bail pending trial in case FIR No.64 dated 19.06.2019 registered under Section 365 of Indian Penal Code (later Section 302, 201, 120-B of Indian Penal Code and Section 25/54/59 of Arms Act were added) at Police Station Jhander, District Amritsar Rural.

2. The present FIR was lodged on the statement of Major Singh on the allegations that marriage of his elder sister Davinder Kaur took place with Harwant Singh and 3 children were born out of the wedlock. His nephew Onkar Singh has cleared ILETS and wanted to go abroad and they were collecting funds from their relatives in this regard. His brother-in-law Harwant Singh was having illicit relationship with other ladies since long and his attitude was never liked by the family members and they used to restrain Harwant Singh from indulging into such act. Due to this reason,

Makhan Singh, is nephew of his brother-in-law Harwant Singh and both are involved in committing indecent acts. On 17.06.2019, the complainant received a phone call from Malkit Singh, who informed him that his sister and her three children are missing and are not traceable. He along with his relatives tried to search them but they were not found. He is sure that his sister Davinder Kaur and her children have been kidnapped by his brother-in-law Harwant Singh and his nephew Kuldip Singh. On the basis of the above complaint, initially the FIR was registered under Section 365 of Indian Penal Code.

3. Learned counsel for the petitioner submits that he has withdrawn his first petition for regular bail in the year 2021 and thereafter he has approached this Court again on the ground of parity as similarly situated co-accused has been granted the concession of regular bail however the second petition for regular bail was withdrawn as there was some typographical mistakes and liberty was granted to file a fresh petition with better particulars.

4. Learned counsel for the petitioner further contends that complainant-Major Singh made a supplementary statement on 23.06.2019 in which, he has attributed that co-accused Manpreet Kaur is having illicit relationship with Harwant Singh and she has connived with her husband and the present petitioner killed his sister, his nephew and niece. Learned counsel for the petitioner further contends that the motive set up by the prosecution in this case is against co-accused Manpreet Kaur, who has been granted anticipatory bail by the Co-ordinate Bench of this Court on 05.05.2023 in case bearing CRM-M-1334-2023 and similarly situated co-accused namely Kuldeep Singh was granted regular bail by this Court vide

petitioner is behind the bars for the last more than 4 years and 7 months.

4. Per contra, learned State counsel opposes the grant of regular bail to the petitioner on the ground that the petitioner is involved in a heinous crime and prosecution has collected sufficient evidence to prove his complicity in the present case.

5. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that complainant-Major Singh has already been partially examined and out of 46 prosecution witnesses cited, only 09 have been examined so far and the trial has not even reached at the half way stage. The custody certificate of the petitioner indicates that he is behind the bars for the last more than 4 years and 7 months and co-accused-Manpreet Kaur was granted anticipatory bail by this Court on 05.05.2023 in case bearing No.CRM-M-1334 of 2023. The culpability, if any, of the petitioner would be seen at the time of the trial.

6. The foundational concept of the criminal jurisprudence is to ensure speedy trial. Hon'ble the 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

Constitution of India would come into play.

8. In this regard, reference is being made to the law laid down by Hon'ble Supreme Court of India 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. Accordingly, the present petition is allowed. The petitioner Sona Singh @ Sonu is ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of the CJM/Duty Magistrate concerned.

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 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.

07.02.2024

Rajeev (rvs)

(HARPREET SINGH BRAR)

JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No