

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-7495 of 2024
Date of Decision: February 16, 2024

Lakhwinder Singh @ Lakhi
.....Petitioner
versus
State of Punjab
.....Respondent

CORAM: HON'BLE MR.JUSTICE HARPREET SINGH BRAR

Present:- Mr. Parvinder Singh, Advocate
for the petitioner

Mr. Sandeep Kumar, DAG Punjab

Harpreet Singh Brar, J. (Oral)

1. This is the first petition filed under Section 439 of Cr.P.C. seeking grant of regular bail to the petitioner in the case bearing FIR No. 404 dated 10.12.2020 registered under Sections 302 of Indian Penal Code at Police Station City Sohana, District SAS Nagar.
2. The present FIR was lodged on the allegations that on 09.12.2020, the complainant has gone to the house of his sister Gurmeet Kaur. When he was about to leave, his sister asked him to once meet Gurwinder Singh, who had gone to a wedding party in the village. After a while he heard a noise, it was around 10.00 o'clock at night. The complainant and his sister Gurmeet Kaur opened the gate and came out in the street and found that his nephew Gurwinder Singh was being abused by the petitioner (Lakhwinder Singh @ Lakhi). The petitioner was holding an axe in his hand and he attacked his nephew Gurwinder Singh and inflicted a blow with the axe on his neck. His nephew suffered a deep

cut on his neck and fell down. Then, Lakhwinder Singh (petitioner) ran away from the spot alongwith his weapon. Jagjeet Singh, a co-villager got Gurwinder Singh admitted at Shri Harikrishan Sahib Eye Hospital, Sohana where he was declared brought dead by the doctor.

3. Learned counsel for the petitioner *inter alia* contends that perusal of the record would indicate that it is a case of sudden fight and only solitary blow with axe was inflicted on the deceased. Further reference to exception (4) of Section 300 of IPC is made to submit whether the offence under Section 302 IPC is made out or it is a case of culpable homicide not amounting to murder, would be a moot point to be determined by the learned trial Court. In support of his argument learned counsel for the petitioner has referred to testimony of deposition of the eye witness PW-1 Gurmeet Kaur, who is mother of the deceased and during her cross-examination she has admitted that there was no enmity between the petitioner and her deceased son and there was no dispute pending between them with regard to any matter. Learned counsel further submits that the petitioner is behind the bars since 10.12.2020 and the prosecution case is progressing at a snail's pace and delay in conclusion of the trial would violate the fundamental right of the petitioner enshrined under Article 21 of the Constitution of India.

4. Per contra, learned State counsel opposes the prayer for grant of regular bail to the petitioner on the ground that he is the main accused. The intention and knowledge is writ large to commit murder and the petitioner has given a deadly blow with a sharp edged weapon which proved fatal, as such the petitioner is not entitled to be released on regular bail.

5. Having heard the learned counsel for the parties and after perusing

the record of the case, it transpires that the petitioner is behind the bars since 10.12.2020 and both the eye witnesses have been examined and out of total of 14 PWs only 04 PWs have been examined till date. Culpability, if any, would be determined at the time of the trial. So further incarceration of the petitioner without there being the prospect of the conclusion of the trial in the near future, would be violative of Article 21 of the Constitution of India.

6. The foundational concept of the criminal jurisprudence is to ensure speedy trial. The Hon'ble 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. 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 trial becomes excessively long, the fairness guaranteed by Article 21 of the Constitution of India would come into play.

7. In this regard, reference is being made to the law laid down by the Hon'ble Supreme Court 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, (2002) 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.

8. In view of the above, the present petition is allowed solely on the ground of long custody already undergone by the petitioner and without commenting on the merits of the case lest it may prejudice the outcome of the case pending before the trial Court. The petitioner- Lakhwinder Singh @ Lakhi 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.

9. 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.

(HARPREET SINGH BRAR)
JUDGE

February 16, 2024

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No