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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-15921-2024 (O/M)
Date of decision : 09.08.2024

Gurmeet

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Rakesh Nehra, Senior Advocate with
Mr. Reetesh Kumar, Mr. Vikalp Hooda,
Mr. Bhim Singh, Advocates,
for the petitioner.

Mr. Ravi Partap Singh, DAG Haryana.

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HARSH BUNGER, J.

CRM-29575-2024

This is an application filed under Section 528 of Bharatiya Nagrik
Suraksha Sanhita 2023 for placing on record copy of list of witnesses and copy
of bail order of main accused Rakesh, passed in CRM-M-6096-2024,
dated 09.04.2024 as Annexure P-15 and Annexure P-16.

For the reasons mentioned in application, same is allowed and
Annexure P-15 and Annexure P-16 are taken on record.

Application is accordingly disposed of.

CRM-M-15921-2024

1. This is third petition filed under Section 439 of the Code of
Criminal Procedure on behalf of petitioner (Gurmeet) for grant of regular bail
in case bearing FIR No. 81 dated 05.03.2021, under Sections 365, 379 IPC,

registered at Police Station Industrial Sector-29, Panipat, District Panipat (Sections 323, 457, 380, 560, 302, 201, 120-B, 34 IPC added later on).

2. The first petition (CRM-M-26704-2023) was dismissed by this Court, vide order dated 04.08.2023 (Annexure P-10) and the second petition (CRM-M-55088-2023) was dismissed as withdrawn, vide order dated 08.11.2023 (Annexure P-11).

3. Custody certificate dated 08.08.2024 of the petitioner filed by learned State counsel in Court today, is taken on record, subject to all just exceptions.

4. Briefly, the prosecution case was launched on the complaint moved by Simran and Preeti, who stated that their brother-in-law, namely Rakesh, had kidnaped their brother Deepak on 01.03.2021 and subsequently, kidnapped their mother, namely Roshni, on 03.03.2021. It was alleged that Rakesh along with his accomplices had committed theft in their house in the night of 03.03.2021 and stolen gold Mangal Sutra, gold Tika, gold ring, ear rings, three pairs of silver Pajeb, two pairs of silver karre and a sum of Rs.1.60 Lacs. It appears that on the said complaint, a formal FIR was registered under Sections 365 and 379 of the Indian Penal Code, however subsequently on the basis of statement of victim Deepak recorded under Section 164 of the Code of Criminal Procedure, offence under Section 379 of the Indian Penal Code was deleted and offences under Sections 457, 380, 323, 506, 302, 201 and 120-B of the Indian Penal Code were added.

5. Learned senior counsel for the petitioner submits that vide order dated 09.04.2024, passed in CRM-M-6096-2024, by a Co-ordinate Bench of this Court, co-accused of petitioner, namely, Rakesh, who is stated to be main

accused, has already been granted the concession of regular bail. It is submitted that the petitioner has already undergone actual custody for the period of 3 years and 4 months 28 days. It is further submitted that there are total 24 prosecution witnesses, however, only 10 witnesses have been examined till date including the material witnesses Preeti (PW5), Simran (PW6) and Deepak (PW7), who have turned hostile. Hence, the conclusion of trial is likely to take some time. Accordingly, learned senior counsel for the petitioner submits that the petitioner is ready to abide by all the conditions as may be imposed by this Court or by the trial Court. Learned senior counsel further submits that the petitioner is also willing to furnish security in the form of Fixed Deposit Receipt (F.D.R.) before the concerned Court, so as to ensure his presence before the Court on each and every date of hearing.

6. Leaned State counsel has opposed the plea of the petitioner for grant of regular bail on the ground of seriousness and gravity of the offences. It is not disputed that till date only 10 witnesses have been examined out of total 24 prosecution witnesses. However, learned State counsel states that since serious and grave charges are alleged against the petitioner, hence there is every probability that he may influence the witnesses and delay the trial, considering the fact that almost 14 witnesses are yet to be examined, accordingly, prayer has been made for dismissal of the present petition.

6.1 However, learned State counsel has not disputed the fact that petitioner is in custody since 10.03.2021 and main accused-Rakesh has already been granted regular bail by a co-ordinate Bench of this Court.

7. I have heard learned counsel for the parties and perused the paper book as well as custody certificate dated 08.08.2024.

8. In the instant case, the petitioner has been in custody since 10.03.2021.

9. The petitioner has undergone actual sentence of 3 years 4 months 28 days and considering the fact that during trial, three witnesses i.e. PW5-Preeti; PW6-Simran and PW7-Deepak have not supported the case of prosecution and only 10 witnesses have been examined out of 24 witnesses; therefore, this Court has reason to believe that the trial is likely to take some time to conclude. Although, petitioner is facing serious charges, however, taking note of the fact that the co-accused of petitioner, namely, Rakesh has been granted concession of regular bail by a coordinate Bench of this Court, vide order dated 09.04.2024, accordingly, the present petition is allowed and the petitioner is admitted to bail on his furnishing bail/personal bonds to the satisfaction of the trial/duty/Illaq Magistrate. The petitioner shall appear before the trial Court on each and every date unless specifically exempted on a particular date. In order to ensure presence of the petitioner before trial Court during trial, the petitioner (or anyone on his behalf) shall prepare a Fixed Deposit Receipt (F.D.R.) in the sum of Rs. 1,00,000/- and submit the same with the trial Court. The same would be liable to be forfeited as per law, in case the petitioner remains absent from trial without any sufficient cause.

9.1 So far as the apprehension expressed by learned State counsel that the petitioner may influence the witnesses or may even abscond in order to delay the trial, suffice it to state that in the event of any such conduct, the prosecution can always approach the competent Court for cancellation of bail. Accordingly, it is observed that the State/Prosecuting Agency/State police shall be at liberty to observe the behaviour of the petitioner during the bail period, and in case it feels that the petitioner is indulging in influencing any of

the witnesses or tampering with the prosecution evidence in any manner or otherwise causing interference with the progress of trial, it shall be open for the State/Prosecuting Agency/State police to move to the trial Court for cancellation of the bail, which shall be decided by the trial Court on merits.

9.2 The petitioner shall also inform the concerned Station House Officer about his address at which he intends to reside during the pendency of case/trial and any change in the address shall be communicated to the concerned Station House Officer, forthwith. The petitioner would also furnish his telephone number to the concerned Station House Officer. He would also furnish his undertaking to the effect that he will not indulge in any illegal activity. The petitioner shall also appear before the concerned Police Station/Station House Officer on first Monday of every month till the conclusion of trial and in case the Station House Officer refuses to mark his presence, he is permitted to make an application before the Illaqa Magistrate, concerned.

10. Nothing expressed hereinabove shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for bail at this stage.

11. The petition is accordingly disposed of.

12. All pending application(s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

09.08.2024
sjks

Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No