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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-18370-2024 (O&M)
Date of decision: 03.10.2024

Gurpreet Singh @ Vijay

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

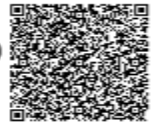
Present: Mr. Munish Behl, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') seeking regular bail in case bearing FIR No.193 dated 15.09.2022 under Sections 307, 323, 324, 376, 452 of the Indian Penal Code, 1860 (for short 'IPC') (Sections 380, 326, 201, 120-B of IPC added later on), registered at Police Station Panjokhra, District Ambala.

2. The present FIR was registered on the basis of a complaint moved by father of the victim 'K', on the allegations that marriage of his



daughter was solemnized with Manmohan Singh in the year 2013. On 14.09.2022 at 03.00 p.m., his elder daughter Harmesh Kaur, who was married to Bhupinder Singh, in different village, informed him on phone that after entering into the house of 'K' and after showing knife, Manmohan Singh's chacha's son Vijay (petitioner) attempted to rape the victim and about five months ago, the petitioner raped her by showing knife to her. On 15.09.2022, when the victim opposed, the petitioner gave beatings to her and had a fight with her and with an intention to kill her, he attacked upon her body 7-8 times with the knife. On raising the noise by the victim, the petitioner ran away from the spot along with knife. Therefore, a prayer was made to take strict legal action against the petitioner.

3. Learned counsel for the petitioner, *inter alia*, contends that the petitioner is brother-in-law of the victim-prosecutrix and he has been falsely implicated in the present case. The petitioner is behind bars for the last more than 02 years and the prosecution has failed to conclude its evidence, as till date, not even a single witness has been examined. The alleged incident took place on 14.09.2022, however, statement of the victim-prosecutrix was recorded on 19.10.2022 and thereafter, she appeared before the jurisdictional Magistrate on 04.11.2022 and made her statement under Section 164 of Cr.P.C. In the initial version, it has been indicated that an attempt was made by the petitioner to commit rape upon the victim, which resulted into scuffle between them and thereafter, in the fit of anger, the petitioner gave knife



blow to the victim-prosecutrix. However, in the statement made by the prosecutrix under Section 164 of Cr.P.C. on 04.11.2022, she improved her version and stated that on 14.09.2022, she was raped and was given a knife blow. As such, totally contradictory case was set up by the prosecution. Further, she levelled allegations against her in-laws that they are responsible for the incident. All the family members of her in-laws have been declared innocent. The motive behind the occurrence narrated by the victim-prosecutrix is that the accused wanted to turn her out of the matrimonial home. The petitioner is not involved in any other case. Further, there is no medical evidence to corroborate the allegation of sexual assault upon the victim-prosecutrix and the injuries suffered by her are not of that extent, which would make a case under Section 307 of IPC. Therefore, it would be a moot point to be decided by learned trial Court whether the petitioner can be held liable for an offence under Section 307 of IPC or not.

4. *Per contra*, learned State counsel opposes the prayer for grant of regular bail to the petitioner on the ground that pursuant to the disclosure statement suffered by the petitioner, weapon of offence and mobile phone of the petitioner were recovered at his instance and opinion was obtained from the Medical Officer of Civil Hospital, Ambala on 22.10.2022 regarding weapon of offence used by the petitioner and the injuries found to have been suffered by the victim-prosecutrix. The doctor has categorically opined that the injuries could be possible by the weapon of offence recovered at the

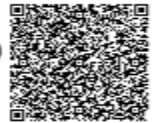


instance of the petitioner. Learned State counsel produces the reply by way of affidavit of Rajat Gulia, HPS, Deputy Superintendent of Police, Ambala Cantt. and custody certificate dated 02.10.2024 of the petitioner, in the Court today, which are taken on record. However, she could not controvert the fact that the petitioner is not involved in any other case and in spite of passing of more than 02 years, not even a single witness has been examined.

5. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the petitioner is behind bars since 30.09.2022 and the trial of the case will take long time in its conclusion, as till date, out of total 27 prosecution witnesses, none has been examined. The culpability, if any, would be determined at the time of trial. 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.

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.

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

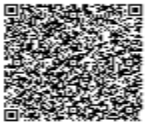


deprivation would be violative of his fundamental right under Article 21 of the Constitution of India. The procedure so prescribed must ensure speedy trial for determination of the guilt of such person. Some amount of denial of personal liberty cannot be avoided, but if the period of deprivation pending trial becomes excessively long, the fairness guaranteed by Article 21 of the Constitution of India would come into play.

8. 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.***

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

“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.”

10. In view the above, present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, petitioner Gurpreet Singh @ Vijay is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of learned Illaqa Magistrate/trial Court concerned.

11. 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 learned trial Court.

[HARPREET SINGH BRAR]
JUDGE

03.10.2024
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No