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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-22155-2024

Date of Decision: 18.09.2024

Jugraj Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present:-. Mr. M.S. Saini, Advocate
for the petitioner.

Mr. R.S. Thind, DAG Punjab

KIRTI SINGH, J.(Oral)

The jurisdiction of this Court under Section 439 Cr.P.C. has been invoked for grant of regular bail to the petitioner in case FIR No.380 dated 31.10.2019, registered under Sections 302/120-B IPC and Section 25 of the Arms Act, 1959 (Sections 212/216 IPC added later on) at Police Station Phillaur, District Jalandhar, Rural.

2. The facts in brief are that the above noted FIR was registered on the statement of complainant Charanjit Singh, who stated that on 31.10.2019 at about 5.15/5.30 p.m., the son of the petitioner was standing in front of his car near the road. In the meanwhile, three young persons came on a motorcycle and started firing on his son, due to which he fell down and the assailants fled away. On 01.11.2019, a supplementary statement of the complainant was recorded wherein

he named one Navepreet Singh @ Nav.

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3. Learned counsel for the petitioner submits that the complainant-Charanjit Singh, father of the deceased has also expired and that the petitioner has been implicated in the present case on the basis of disclosure statement suffered by co-accused Kanwaljit Singh @ Kamal, who was in custody in connection with FIR No. 11 dated 05.01.2020 registered under Section 482 and 411 IPC and Section 25 of Arms Act. He further submits that co-accused Gurpreet Singh @ Guri has been granted the concession of regular bail by this Court vide order dated 08.08.2022 passed in CRM-M-37252-2020 and Kanwaljit Singh @ Kamal has been granted the concession of regular bail by this Court vide order dated 23.08.2022 passed in CRM-M-40587-2020. He further submits that the petitioner has already undergone actual custody of 03 years, 08 months and 15 days.

4. Upon advance notice, learned State counsel has put in appearance and submits that the petitioner had actively participated in the occurrence and there were three bullet injuries suffered by the deceased, and that revolver used in the commission of the offence, has been recovered from co-accused Ashish Kumar. He has filed custody certificate in Court today and the same is taken on record. As per custody certificate, the petitioner has undergone actual custody of 03 years, 08 months and 15 days and there are two more cases registered against him and he is not on bail in those cases. Learned State counsel on instructions from the concerned investigating officer submits that charges were framed on 25.05.2022 and till date, out of total 33 prosecution witnesses only 03 have been examined. He, however, submits that in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail.

5. Heard the rival submissions made by learned counsel for the parties.

6. The charges were framed on 25.05.2022 and out of total 33 prosecution witness, 03 have been examined till date. The petitioner has



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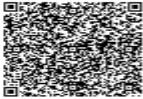
undergone actual custody of 03 years, 08 months and 15 days. Further detention of the petitioner will not serve any useful purpose and will be violation of Article 21 of the Constitution of India including the right to speedy trial, and is against the principle "Bail is a rule, jail is an exception" as elucidated in the judgment of Apex Court in *"Dataram Singh vs. State of Uttar Pradesh and another"*, (2018) 3 SCC 22.

7. Deprivation of personal liberty without ensuring speedy trial is not consistent with Article 21. While deprivation of personal liberty for some period may not be avoidable, period of deprivation pending trial/appeal cannot be unduly long. The Apex Court in *"Abdul Rehman Antulay and others v. R.S. Nayak and another"*, 1992(2) RCR (Criminal) 634 observed that Right to Speedy Trial flowing from Article 21 encompasses all the stages, namely the stage of investigation, inquiry, trial, appeal, revision and retrial.

8. The veracity of the allegations leveled against the petitioner shall be established during the course of the trial. Admittedly, the charges were framed and out of total 33 prosecution witnesses only 03 have been examined till date. The petitioner has undergone actual custody of 03 years, 08 months and 15 days. Therefore, this Court is of the view that further incarceration of the petitioner would not serve any purpose.

9. Without commenting anything on the merits of the case, lest it may prejudice the trial, the present petition is allowed and the petitioner is ordered to be released on regular bail on her furnishing adequate bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate. The petitioner shall also abide by the following conditions:-

(i) The petitioner will not tamper with the evidence during the trial.



- (ii) The petitioner will not pressurize/intimidate the prosecution witness(s).
- (iii) The petitioner will appear before the trial Court on the date fixed, unless personal presence is exempted.
- (iv) The petitioner shall not commit an offence similar to the offence of which he is accused of, or for commission of which she is suspected.
- (v) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

10. In case of breach of any of the above conditions, the prosecution shall be at liberty to move an application for cancellation of bail before this Court.

11. However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

(KIRTI SINGH)
JUDGE

18.09.2024
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No