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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

Sr. No.217

CRM-M-23260-2024(O&M)
Date of decision : 31.07.2024

Manpreet Singh @ Happy @ Maan

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Rishu Mahajan, Advocate, for the petitioner.

Mr. J.S. Dhaliwal, AAG, 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.49 dated 25.03.2022, under Sections 379-B & 411 IPC, registered at Police Station Majitha Road, Amritsar.

2. Learned counsel for the petitioner *inter alia* submits that allegedly on 24.03.2022, at around 8.40 p.m. the complainant along with her daughter-in-law, namely, Shikha Sharma were walking on the street where two persons with muffled faces came on Activa Scooter and the pillion rider snatched the gold chain worn by her and fled from the spot. He further submits that the petitioner has been falsely implicated in this case. He has undergone an actual custody of 02 years, 01 month and 20 days. The petitioner is involved in 11 other criminal cases, however, in 03 cases he has been acquitted and in 02 cases he has already been undergone the sentence.

Further, he has placed reliance upon the judgments passed by the Apex

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Court in “Dataram Singh vs. State of Uttar Pradesh and another, (2018) 3 SCC 22” and “Abdul Rehman Antulay and others v. R.S. Nayak and another”, 1992(2) RCR (Criminal) 634 in support of his submissions.

3. *Per contra*, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. He states that the petitioner was actively involved in the commission of the offence. He has filed status report dated 30.07.2024 and custody certificate in Court today and the same are taken on record. As per custody certificate, the petitioner has undergone actual custody of 02 years, 01 month and 20 days and the petitioner is involved in 11 other criminal cases, however, in 03 cases he has been acquitted and in 02 cases he has already been undergone the sentence. He on instructions from the concerned investigating officer submits that charges were framed on 15.11.2022 and till date, no prosecution witness has been examined. The next date of hearing before the learned trial Court is 06.08.2024, however, in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail.

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

5. The charges were framed on 15.11.2022 and none of the prosecution witness has been examined till date. The petitioner has undergone actual custody of 02 years, 01 month and 20 days.

6. It would be unjust to keep him behind bars looking at the condition of the jails which are not conducive for rehabilitation process and detaining the accused persons in jails would also tantamounts to violation of Article 21 of the Constitution of India including the right to speedy trial, and

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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. As far as the pendency of other cases and involvement of the petitioner in other cases is concerned, reliance can be placed upon the order of this Court rendered in CRM-M-25914-2022 titled as ***“Baljinder Singh alias Rock vs. State of Punjab”*** decided on 02.03.2023, wherein, while referring Article 21 of the Constitution of India, this Court has held that no doubt, at the time of granting bail, the criminal antecedents of the petitioner are to be looked into but at the same time it is equally true that the appreciation of evidence during the course of trial has to be looked into with reference to the evidence in that case alone and not with respect to the evidence in the other pending cases. In such eventuality, strict adherence to the rule of denial of bail on account of pendency of other cases/convictions in all probability would land the petitioner in a situation of denial of the concession of bail.

8. 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.

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9. The veracity of the allegations leveled against the petitioner shall be established during the course of the trial. Admittedly, the charges were framed way-back on 15.11.2022 and none of the prosecution witness has been examined till date. The petitioner has undergone actual custody of 02 years, 01 month and 20 days. Therefore, this Court is of the view that further incarceration of the petitioner would not serve any purpose.

10. 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 his 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 he 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.

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11. 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.

12. 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.

Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

31.07.2024
Ramandeep Singh

Whether speaking / reasoned	Yes/No
Whether Reportable	Yes/No