

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(212)

CRM-M-24461-2024 (O&M)
Date of Decision : 27.08.2024

Manpreet Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON’BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Vikramjeet Singh, Advocate for
Mr. Naveen Upadhyay, Advocate
for the petitioner.

Mr. J.S. Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J.(ORAL)

1. Relief sought

This petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.23, dated 15.02.2024 under Sections 379-B, 411 and 473 of IPC, 1860 registered at Police Station Sadar Jagraon, District Ludhiana Rural, Punjab.

2. Prosecution story set up in the present case as per the version in the FIR read as under :-

‘FIR No.0023, Dated: 15/02/2024, Police Station Sadar Jagraon, Under Section 379B, 411, 473 IPC, District Ludhiana Rural.

"Stated that I, Amarjit Singh son of Kartar Singh resident of village Dalla PS Hathoor, aged about 67 years, Mobile 81464-18507, is resident of above said address and is a farmer. Today I visited Jagraon for household purpose. I was returning from Jagraon to my village Dalla via



Akhara at about 4:30PM, I reached Government School, Akhara, I got surrounded by three youths on motorbike following me. One of them after threatening by Kirch, snatched my purse which contained Rs 4500/- and my Aadhar Card. Those unknown youths then ran away towards village Pummipura. I also gaining strength started following them. When they reached 2-3 kms away, then the motorbike of those youths suddenly stopped. I also reached there. Then they started running into the fields. I raised hue and cry that they have snatched. Hence people working in the fields got hold of them. Their identification was asked who then told that they are Harpreet Singh son of Sukhdev Singh resident of Kauke Kala PS Sadar Jagraon, the second one Manpreet Singh, son of Thakar Singh resident of Nathowal PS Hathoor and third one Jagraj Singh son of Iqbal Singh resident of Nathowal PS Hathoor District Ludhiana, and Motorbike registration number Apache PB10FX9968 color Silver. Police was informed, then you police party reached spot. All three along with their Motorbike was handed over to the Police. Strict Police action be taken. These youth were kept in custody by me with the help of passerby till now. I along with Chand Singh Ex- Sarpanch and Ex-Chairman Market Committee, Hathoor, got recorded my statement. Sd/- Amarjit Singh Attested Sd/- Chand Singh. Checked Surjit Singh ASI, Chowki Kauke Kala, PS Sadar Jagrao, Dated 15/02/2024.

Police Action: Today said ASI alongwith Ct Mahikjeet Singh 299, Ct Rajwinder Singh 989, Ct Vishu 24 and Sipahi Karanpreet Singh 860 were present in the Police Post, when Munshi Chowki informed that three youtrh committed snatching with Amarjit Singh near Village Akhara and people got hold of the accused persons and you took action accordingly. On this said ASI along with



the said staff reached Village Akhara near Anaj Mandi Akhara, where a lot of people were gathered. Then the complainant in presence of Ex Sarpanch got recorded his statement which was recorded and read over to him. It was signed by Amarjit Singh and attested by Chand Singh Ex Sarpanch Village Dalla in English. As per complaint the commission of offence under section 379B IPC is found to be committed. As per statement, Ct Mahikjeet Singh 229 was send to PS Ghalia, a case under above section against Harpreet Singh, Manpreet Singh and Jagraj Singh to be registered. After registering case, its number be informed. Special report be released and officer and DCR be informed. Said ASI is present at spot. At Anaj Mandi Village Akhara time: 8:10PM. Sd/- Surjit Singh ASI/612 I/C, Police Post Kauke kala, Police Station Sadar Jagraon Dated 15/02/2024.'

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner contends that petitioner has been falsely implicated in this case and no specific role has been attributed to the petitioner. Moreover, there is no motive to cause injuries to the complainant. There is no evidence against the petitioner which would connect him with the commission of crime. Learned counsel also stated that co-accused Jagraj Singh has already been granted the concession of regular bail by this Court vide order dated 10.07.2024 passed in CRM-M-31410-2024. Apart from the present case, the petitioner is also involved in two other cases, as detailed in the custody certificate. The petitioner is behind the bars in this case since 15.02.2024, investigation is complete, *Challan* stands presented on 30.03.2024 and charges are yet to be framed. Out of total 11 prosecution

**CRM-M-24461-2024 (O&M)****4**

witnesses, none has been examined as on date. The petitioner has undergone 06 months and 10 days in custody, meaning thereby trial of the case is moving at a snail's pace and conclusion of the same may take long time and therefore, further incarceration of the petitioner would serve no useful purpose.

Notice of motion.

On behalf of the State

4. On the asking of Court, Mr. J.S. Rattu, DAG, Punjab accepts notice on behalf of the respondent-State and has produced the custody certificate dated 26.08.2024 of petitioner, which is ordered to be taken on record subject to just exceptions and vehemently opposes the concession of regular bail to the petitioner on the ground that allegations against the petitioner are of serious nature and petitioner is also involved in two other cases, as mentioned in the custody certificate. However, he could not controvert the custody period undergone by the petitioner.

5. **Analysis**

Investigation in the case is complete and challan stands presented on 30.03.2024 and charges are yet to be framed. Out of the total 11 prosecution witnesses, none has been examined as on date which makes it apparent that trial of the case is moving at a snail's pace and may take long time to conclude therefore, no useful purpose would be served by further incarceration of the petitioner.

As far as the pendency of other cases and involvement of the petitioner in other cases is concerned, same will not be a predicament in vlight of 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



CRM-M-24461-2024 (O&M)

5

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 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 lend the petitioner in a situation of denial the concession of bail.

Hon'ble the Supreme Court in its latest judgment passed in ***'Jalaluddin Khan vs. Union of India' 2024 Live Law (SC) 571***, observed as under :-

“21. Before we part with the Judgment, we must mention here that the Special Court and the High Court did not consider the material in the charge sheet objectively. Perhaps the focus was more on the activities of PFI, and therefore, the appellant's case could not be properly appreciated. When a case is made out for a grant of bail, the Courts should not have any hesitation in granting bail. The allegations of the prosecution may be very serious. But, the duty of the Courts is to consider the case for grant of bail in accordance with the law. “Bail is the rule and jail is an exception” is a settled law. Even in a case like the present case where there are stringent conditions for the grant of bail in the relevant statutes, the same rule holds good with only modification that the bail can be granted if the conditions in the statute are satisfied. The rule also means that once a case is made out for the grant of bail, the Court cannot decline to grant bail. If the Courts start denying bail in deserving cases, it will be a violation of the rights guaranteed under Article 21 of our



Constitution.”

Reliance can also be placed upon the judgment of the Apex Court rendered in **‘Dataram versus State of Uttar Pradesh and another’ 2018(2) R.C.R. (Criminal) 131**, wherein it has been held that the grant of bail is a general rule and putting persons in jail or in prison or in correction home is an exception. Relevant paras of the said judgment are reproduced as under:-

“2. A fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences but that is another matter and does not detract from the fundamental postulate in respect of other offences. Yet another important facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person in jail or in a prison or in a correction home (whichever expression one may wish to use) is an exception. Unfortunately, some of these basic principles appear to have been lost sight of with the result that more and more persons are being incarcerated and for longer periods. This does not do any good to our criminal jurisprudence or to our society.

3. There is no doubt that the grant or denial of bail is entirely the discretion of the judge considering a case but even so, the exercise of judicial discretion has been circumscribed by a large number of decisions rendered by this Court and by every High Court in the country. Yet, occasionally there is a necessity to introspect whether denying bail to an accused person is the right thing to do on the facts and in the circumstances of a case.

4. While so introspecting, among the factors that need to be considered is whether the accused was arrested during



investigations when that person perhaps has the best opportunity to tamper with the evidence or influence witnesses. If the investigating officer does not find it necessary to arrest an accused person during investigations, a strong case should be made out for placing that person in judicial custody after a charge sheet is filed. Similarly, it is important to ascertain whether the accused was participating in the investigations to the satisfaction of the investigating officer and was not absconding or not appearing when required by the investigating officer. Surely, if an accused is not hiding from the investigating officer or is hiding due to some genuine and expressed fear of being victimised, it would be a factor that a judge would need to consider in an appropriate case. It is also necessary for the judge to consider whether the accused is a first-time offender or has been accused of other offences and if so, the nature of such offences and his or her general conduct. The poverty or the deemed indigent status of an accused is also an extremely important factor and even Parliament has taken notice of it by incorporating an Explanation to section 436 of the Code of Criminal Procedure, 1973. An equally soft approach to incarceration has been taken by Parliament by inserting section 436A in the Code of Criminal Procedure, 1973.

*5. To put it shortly, a humane attitude is required to be adopted by a judge, while dealing with an application for remanding a suspect or an accused person to police custody or judicial custody. There are several reasons for this including maintaining the dignity of an accused person, howsoever poor that person might be, the requirements of Article 21 of the Constitution and the fact that there is enormous overcrowding in prisons, leading to social and other problems as noticed by this Court in *In Re-Inhuman Conditions in 1382 Prisons*, 2017(4) RCR*



*(Criminal) 416: 2017(5) Recent Apex Judgments (R.A.J.)
408 : (2017) 10 SCC 658*

6. The historical background of the provision for bail has been elaborately and lucidly explained in a recent decision delivered in Nimesh Tara chand Shah v. Union of India, 2017 (13) SCALE 609 going back to the days of the Magna Carta. In that decision, reference was made to Gurbaksh Singh Sibbia v. State of Punjab, (1980) 2 SCC 565 in which it is observed that it was held way back in Nagendra v. King-Emperor, AIR 1924 Calcutta 476 that bail is not to be withheld as a punishment. Reference was also made to Emperor v. Hutchinson, AIR 1931 Allahabad 356 wherein it was observed that grant of bail is the rule and refusal is the exception. The provision for bail is therefore age-old and the liberal interpretation to the provision for bail is almost a century old, going back to colonial days.

7. However, we should not be understood to mean that bail should be granted in every case. The grant or refusal of bail is entirely within the discretion of the judge hearing the matter and though that discretion is unfettered, it must be exercised judiciously and in a humane manner and compassionately. Also, conditions for the grant of bail ought not to be so strict as to be incapable of compliance, thereby making the grant of bail illusory.”

Therefore, to elucidate further, this Court is conscious of the basic fundamental law that right to speedy trial is a part of reasonable, fair and just procedure guaranteed under Article 21 of the Constitution of India. This constitutional right cannot be denied to the accused as is the mandate of the Apex Court in **‘Hussainara Khatoon and ors (IV) vs. Home Secretary, State of Bihar, Patna’ (1980) 1 SCC 98**. Besides this, reference can be drawn upon that pre-conviction period of the under-trials should be as short as possible

keeping in view the nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence, reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.

6. **DECISION**

Be that as it may, considering the aforesaid facts and circumstances, investigation in the present case has already been completed and challan stands presented on 30.03.2024. Trial of the case would take sufficient time to conclude, no useful purpose would be served by keeping the petitioner behind the bars. Accordingly, the petitioner is directed to be released on regular bail on his furnishing adequate bail/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

In light of the aforesaid discussions, the present petition is, hereby, allowed. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

(SANDEEP MOUDGIL)
JUDGE

August 27, 2024
Manpreet

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