



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-24552-2024
Date of decision: 22.05.2024

Nirmal Kaur and another

....Petitioners

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

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

Mr. Yuvraj Singh Tiwana, AAG, Punjab.

SUMEET GOEL, J. (ORAL)

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioners in case bearing FIR No194 dated 24.09.2023 registered for the offences punishable under Sections 304-B of IPC, 1860 (Sections 498-A, 406 & 120-B of IPC were added later on) at Police Station Chheharta, District Amritsar.

2. The case set up in the FIR in question (as set out by the petitioners in the present petition) is as follows:-

“Statement of Gurmukh Singh son of Narinder Singh resident of House No. 59, Tower wali Street Hargobind Avenue Sher Shah Suri Road Chheheretta District Amritsar, age around 47 years, mobile No. 98884-77412. I state that I am resident of the aforementioned address and I am in the property dealing business. I



have three children, out of them two are my daughters and one is my son. My eldest daughter Simranjit Kaur @ Sheetal married on 16.08.2021 according to Sikh rites and rituals to Gurprit Singh son of Bua Singh resident of House No. 69 Street No. Gobindpura near Billa Tent House, Sher Shah Suri Road Chhehretta. At the marriage time I had given Istri Dhan to my daughter as per my financial limits. A motorcycle brand Hero Deluxe was given. After some time of marriage the in-laws family of my daughter started harassing her for bringing less dowry, they included her husband, Gurprit Singh, mother-in-law Nirmal Kaur, sister-in-law Babli her husband Sandip Singh resident of Raia another sister-in-law Preeti who is married at Jandiala. They started demanding Royal Enfield Bullet motorcycle. They many times beat my daughter. In pursuit to see my daughter's matrimonial life happy. I many times advised them. But they continued to beat my daughter and were adamant on their demand of Royal Enfield Bullet motorcycle. Yesterday on 23.09.2023 at around 5:15 PM we came to know that owing to harassment by her in-laws for dowry my daughter Simranjit Kaur @ Sheetal has consumed acid and that she is admitted at Amandeep hospital. On hearing this incidence we reached at Amandeep hospital where during the treatment my daughter breathed her last. My daughter was harassed by her in-laws so she consumed acid and ended her life. A legal action be taken against husband of my daughter, Gurprit Singh, mother-in-law Nirmal Kaur, sister-in-law Babli her husband Sandip Singh resident of Raia another sister-in-law Preeti who is



married at Jandiala. I have stated my statement, read it and the same has been read over to me and it is correct. Sd/- Gurmukh Singh aforementioned, attested by Jagga Singh”

3. Learned counsel for the petitioners has argued that petitioner No.1-Nirmal Kaur was arrested on 25.09.2023 whereas petitioner No.2-Gurpreet Singh @ Gopi was arrested on 27.09.2023. Learned counsel for the petitioners has further argued that the material/private prosecution witnesses, namely, PW-1 (complainant), PW-2 (wife of complainant) as also PW-3 (brother-in-law of the complainant) have turned hostile & hence the trial will not culminate into conviction. Learned counsel for the petitioners has further argued that the earlier bail petition filed on behalf of the petitioners was withdrawn on 06.03.2024 wherein the following order was passed:-

“SUMEET GOEL, J. (ORAL)

1. Faced with the situation that the complainant namely Gurmukh Singh is yet to be examined as a prosecution witness, learned counsel for the petitioners seeks to withdraw the present petition at this stage.

2. Dismissed as withdrawn at this stage.

3. Pending application(s), if any, shall also stand disposed off.

March 06, 2024

**(SUMEET GOEL)
JUDGE”**

Learned counsel for the petitioners has submitted that the substantial change of circumstance after the first bail petition was withdrawn on 06.03.2024 is that the material/private prosecution witnesses



have been examined on 30.04.2024 & the same have turned hostile. Thus, regular bail is prayed for.

4. Learned counsel for the State has opposed the present petition by arguing that the allegations raised are serious in nature and, thus, the petitioners does not deserve the concession of regular bail.

5. I have heard counsel for the parties and have gone through the available records of the case.

6. The petitioner No.1-Nirmal Kaur was arrested on 25.09.2023 whereas petitioner No.2-Gurpreet Singh @ Gopi was arrested on 27.09.2023 whereinafter investigation was carried out & challan was presented on 26.12.2023. The earlier bail petition filed by the petitioners was dismissed as withdrawn on 06.03.2024. It would be apposite to refer herein to a judgment passed by this Court in ***Rafiq Khan vs. State of Haryana and another, CRA-S-2332-2023***, relevant whereof read as under:-

“10. As an epilogue to the above discussion, the following principles emerge:

I Second/successive regular bail petition(s) filed is maintainable in law & hence such petition ought not to be rejected solely on the ground of maintainability thereof.

II. Such second/successive regular bail petition(s) is maintainable whether earlier petition was dismissed as withdrawn/dismissed as not pressed/dismissed for non-prosecution or earlier petition was dismissed on merits.



III For the second/successive regular bail petition(s) to succeed, the petitioner/applicant shall be essentially/pertinently required to show substantial change in circumstances and showing of a mere superficial or ostensible change would not suffice. The metaphoric expression of seeking second/successive bail plea(s) ought not be abstracted into literal iterations of petition(s) without substantial, effective and consequential change in circumstances.

IV No exhaustive guidelines can possibly be laid down as to what would constitute substantial change in circumstances as every case has its own unique facts/circumstance. Making such an attempt is nothing but an utopian endeavour. Ergo, this issue is best left to the judicial wisdom and discretion of the Court dealing with such second/successive regular bail petition(s).

V In case a Court chooses to grant second/successive regular bail petition(s), cogent and lucid reasons are pertinently required to be recorded for granting such plea despite such a plea being second/successive petition(s). In other words, the cause for a Court having successfully countenanced/entertained such second/successive petition(s) ought to be readily and clearly decipherable from the said order passed.”

Substantial change of circumstance since the earlier bail petition was dismissed as withdrawn on 06.03.2024 is that the private/material prosecution witnesses have been examined & they have turned hostile. In the considered opinion of this Court, the circumstance, is



a substantial circumstance to consider the second bail petition filed by the petitioners. Total 18 prosecution witnesses have been cited and culmination of the trial will take its own time. The rival contention of the learned counsel for the parties; regarding the weightage required to be attached to the testimonies of the hostile witnesses i.e. PW-1 (complainant), PW-2 (wife of complainant) as also PW-3 (brother-in-law of the complainant); shall be essentially gone into during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioners absconding from the process of justice or interfering with the prosecution evidence. It is necessary to record herein that petitioner No.1-Nirmal Kaur is a lady aged about 65 years & hence her regular bail petition is required to be considered, with some latitude, in terms of proviso to Section 437 of Cr.P.C., 1973. As per the custody certificate dated 21.05.2024 filed by the learned State counsel qua petitioner No.1-Nirmal Kaur, she has suffered incarceration for about 07 months and 26 days & is not shown to be involved in any other case whereas certificate dated 22.05.2024 filed qua petitioner No.2-Gurpreet Singh @ Gopi shows that he has suffered incarceration for about 07 months and 25 days & is not shown to be involved in any other case. Suffice to say further detention of the petitioners as undertrials is not warranted in the facts and circumstances of the present case.

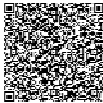


7. In view of totality of factual matrix of the present case, the instant petition is allowed. Petitioners are ordered to be released on regular bail on their furnishing bail/surety bonds to the satisfaction of the learned concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioners shall remain bound by the following conditions:-

- (i) The petitioners shall not mis-use the liberty granted.
- (ii) The petitioners shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioners shall not absent himself on any date before the trial.
- (iv) The petitioners shall not commit any offence while on bail.
- (v) The petitioners shall deposit their passports, if any, with the trial Court.
- (vi) The petitioners shall give their cellphone numbers to the Investigating Officer/SHO of concerned Police Station and shall not change their cell-phone numbers without prior permission of the trial Court/Illaqa Magistrate.
- (vii) The petitioners shall not in any manner try to delay the trial.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioners.

9. Ordered accordingly.



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10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.
11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

May 22, 2024
poonam

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