

2024:PHHC:147303



218 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-25667-2024
DECIDED ON: 24.07.2024

SANJAY KUMAR @ SANJU

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Viren Sibal, Legal Aid Counsel
for the petitioner.

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

SANDEEP MOUDGIL, J (ORAL)

1. Relief Sought

The jurisdiction of this Court under Section 439 Cr.P.C. has been invoked by Sanjay Kumar @ Sonu seeking regular bail in case FIR No. 323, dated 16.07.2023, under Sections 302, 325 and 323 of the Indian Penal Code, 1860 registered at Police Station City, District Barnala.

2. *Facts*

The gravamen of the prosecution case is that Neetu, wife of Vijay Kumar working as Sweeper at Astha Colony, Barnala, filed an FIR alleging that she married to Vijay 30 years ago and later moved to Dashmesh Nagar with her children. On July 15, 2023, Neetu visited her maternal home, accompanied by her 28-year-old son, Pawan Kumar. Her brother, Sanjay Kumar, intoxicated, arrived around 11:30 PM and quarreled with them. At 1:00 AM, Sanjay assaulted their

mother, Vimala Devi, with a wooden stick. When Neetu and Pawan intervened, Sanjay struck Pawan's head, causing fatal injuries. Pawan died at Civil Hospital Barnala. Sanjay objected to Pawan living with their mother, leading to the altercation. On the afore-said allegations, present FIR stands registered.

3. Submissions

On behalf of petitioner:

The contention of learned counsel for the petitioner is that the petitioner has been wrongfully implicated in this case. After the deceased and his maternal grandmother got into a fight, the deceased fell on a bed corner and injured his head. There is a conflict in the complainant's testimony because, although the complainant initially claimed that the petitioner had fled with a wooden stick, recovery has since been done from the residence itself. The petitioner, who has been detained since July 16, 2023, is no longer needed for the investigation. It is argued that since the challan has already been presented and the trial will take enough time to conclude, keeping the petitioner in jail indefinitely would not accomplish anything.

On behalf of respondent-State

Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. He prays for dismissal of the present petition stating that the injury which proved fatal has been attributed to the petitioner. He further submits that the petitioner is involved in four other cases under IPC, out of which in two cases he has already undergone the sentence, in one case he stands acquitted and in one case trial is pending, meaning thereby, the petitioner is habitual offender.

Heard learned counsels for the respective parties and perused the record.

4. **Analysis & Conclusion**

The grant of bail requires the consideration of various factors which ultimately depends upon the specific facts and circumstances of the case before the Court. There is no strait jacket formula which can ever be prescribed as to what the relevant factors could be. However, certain important factors that are always considered *inter-alia*, relate to *prima-facie* involvement of the accused, nature and gravity of the charge, severity of the punishment, and the **character**, position and standing of the accused.

A perusal of criminal record reveals that the appellant is involved in seven other cases, meaning thereby, he is habitual offender. The Apex Court in case **“GudikantiNarasimhulu vs. Public Prosecutor, High Court of A.P.”; (1978) 1 SCC 240**, has already observed that deprivation of freedom by refusal of bail is not for punitive purposes but for the bifocal interests of justice. It has further been observed that it is rational to enquire into the antecedents of the man who is applying for bail to find out whether he has a bad record, particularly a record which suggests that he is likely to commit serious offences while on bail.

The High Court of Judicature for Rajasthan Bench at Jaipur in the case of **Vijay Kumar Meena Vs. State-2008 (4) RLW 3041**, has held as under:

"Although pendency of a criminal case as such may not always be a bar for grant of bail, but if it is shown that in spite of indulgence repeatedly shown by the Court, an accused has been continuously misusing such liberty and involving himself time and again in similar and other nature of offences, this may by itself be a reason for refusal of bail. And that can be done if the Court on the basis of material on record is satisfied that the accused has been repeatedly involving himself in so large number of cases arid at such regular intervals, that he can be safely treated as a habitual offender. Grant of bail no doubt is an issue which concerns the liberty of a citizen. But at the same time,

if an accused is shown to frequently and habitually indulge himself in commission of crimes one after the other and becomes a menace to the society, that liberty is required to be balanced against the larger interest of the society. Apart from merits of the case, when it is shown that he has been committing offences with impunity in such a manner that letting him free would again expose the society to the offences that such habitual offender might again commit, the bail application of such an accused can be refused on consideration of his antecedents alone."

The period of imprisonment, being only 1 year and 4 months, is not such a magnitude as to push the Court towards granting bail in an offence of this nature.

In view of the discussions made hereinabove and the fact that the injury which proved fatal has been attributed to the petitioner as well as the material contained in the case diary and he being an habitual offender; but, without expressing any opinion on the merits of the case, this Court is not inclined to enlarge the petitioner on bail.

The instant petition is dismissed accordingly.

(SANDEEP MOUDGIL)
JUDGE

24.07.2024

Sham

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