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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-31095-2024
Decided on : 09.09.2024

RAVI @ RABBU

. . . Petitioner

Versus

STATE OF HARYANA

. . . Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present : Mr. Devender Arya, Advocate
for the petitioner(s).

Mr. Gaurav Bansal, DAG, Haryana.

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.263 dated 23.09.2023, registered under Sections 323, 324, 379-B, 387, 506, 34 IPC and Section 25 of Arms Act (Sections 307 and 325 IPC were added later on and Section 25 of Arms Act was deleted later on), at Police Station Rampura, District Rewari.

2. The brief facts of the present case are that on 22.09.2023, a written complaint was moved by complainant Naresh Kumar before the police with the averments that on 22.09.2023, at around 9.40 PM, while his son was taking care of hotel owned by the complainant, he received information that his son has been assaulted by some persons, complainant along-with one Anil reached at the spot immediately and on seeing the complainant, accused Satpal @ Lallu s/o Dhani



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Ram, Jatin s/o Kartar and Krishan @ Foji fled away from the spot along-with their weapons on a black coloured Splendor motorcycle and one Manoj s/o Ramphal also fled away on foot through the fields, who was having a shop adjacent to the hotel. His son was lying there in injured condition. Accused also took ₹4,000/- cash from the hotel and were trying to extort money amounting to ₹1,50,000/- from his son.

3. Learned counsel for the petitioner *inter alia* submits that he has been falsely implicated in this case and other co-accused have been granted benefit of regular bail by the Additional District and Sessions Judge, Rewari vide order dated 15.11.2023. He also submits that there are six more cases registered against the petitioner, however, he is on bail in all of them. Learned counsel further submits that the petitioner has already undergone an actual custody of 09 months. He has placed reliance upon judgments passed by Hon'ble Supreme Court in ***Maulana Mohd. Amir Rashadi vs. State of U.P. and another, 2012(1) SCC(Cri) 681*** and ***Criminal Appeal No. 152 of 2020 titled as Prabhakar Tewari vs. State of U.P. and another***, decided on 24.01.2020.

4. Per contra, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. As per the custody certificate, the petitioner has undergone actual custody of 09 months. He further submits that there are six more cases registered against the petitioner, however, he is on bail in all of them. He further on instructions from PSI Rakesh, submits that the charges were framed on 09.08.2024 and out of 24 prosecution witnesses, none has been examined till date. He, however, submits that there are serious allegations against the petitioner, therefore, he is not entitled to the concession of



5. Heard the rival submissions made by learned counsel for the parties.
6. The veracity of the allegations leveled against the petitioner shall be established during the course of the trial. Admittedly, charges have been framed on 09.08.2024 and out of 24 prosecution witnesses, none has been examined till date. The petitioner has undergone actual custody of 09 months and there are six more cases registered against him, however, he is on bail in all of them.
7. As regards the submission of learned State counsel that petitioner is involved in one more criminal case, the Hon'ble Supreme Court in **“Maulana Mohd. Amir Rashadi v. State of U.P. and another”**, 2012(2) SCC 382 has held that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other case. The relevant portion of the said judgment is reproduced herein below :-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

8. 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 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”.



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9. 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.

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.

09.09.2024
Kavita

(KIRTI SINGH)
JUDGE

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