



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

GULAB SINGH **...PETITIONER**

STATE OF HARYANA ... RESPONDENT

Present: Mr. Yoginder Rana, Advocate for
Mr. Salit Sharma, Advocate for the petitioner(s).
Mr. Chetan Sharma, DAG, Haryana.
Mr. G.S. Sandhu, Advocate for the complainant.

SANDEEP MOUDGIL, J (ORAL)

2. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in this case. Though the petitioner was named in the FIR but on completion of the investigation, he was placed at column II as no incriminating material was found against him. He also asserts that the petitioner was summoned under Section 319 Cr.P.C though no role has been attributed to him in any manner whatsoever which could attract involvement in offence under Sections 302, 120-B, 195-A IPC thereof. He further



CRM-M-32459-2024

-2-

submits that this Court has already granted bail to the similar situated co-accused Mehtab Singh vide order dated 19.04.2023 passed in CRM-M-62658-2023, Gurlal Singh vide order dated 04.03.2024 passed in CRM-M-53917-2024, Sajjan Singh vide order dated 30.10.2023 passed in CRM-M-49265-2023, Gurvinder Singh vide order dated 29.11.2023 passed in CRM-M-58806-2023. The petitioner is behind the bars for last about 5 months after he was summoned under Section 319 Cr.P.C. by the Trial Court.

3. Learned State counsel, on the other hand, has produced the copy of the custody certificate, which is taken on record, as per the same the petitioner is behind the bars for last 5 months and 3 days. He prays for dismissal of the instant petition stating that the petitioner is involved in other cases meaning thereby he is a habitual offender but is not in a position to controvert the fact that the co-accused mentioned by counsel for the petitioner have been granted bail.

4. Learned counsel for the complainant would contend that the petitioner is involved in FIR No. 324, under Section 323, 324, 452, 506, 34 IPC registered at P.S. Nissing Karnal as well, and that fact has been concealed by counsel for the petitioner.

5. As per the contention raised on behalf of the counsel for the complainant qua concealment of the petitioner's involvement in other FIRs does find any merit in view of 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.

6. Moreover, learned State Counsel in its custody certificate has mentioned all the FIRs in which the petitioner is involved and in the FIR No. 324, the petitioner is on bail as pointed by learned counsel.

7. Having heard learned counsel for the respective parties, keeping in view the facts that other co-accused person namely Gurvinder Singh who has given a danda blow on the person of the complainant has been granted bail by this Court whereas the case of the petitioner stands at a much better footing in the light of the fact that though he was named in the FIR but no overt act was found to have been committed at this behest by the investigating agency, other co-accused mentioned above have been granted bail by this Court investigation is complete, challan is presented on 26.07.2021, the petitioner has already suffered sufficient period in custody i.e. 5 months and 3 days, this Court do not deem it appropriate to deny the petitioner concession of bail.



8. Further, as per the principle of the criminal jurisprudence, no one should be considered as guilty till the guilt is proved beyond reasonable doubt, whereas in the instant case, trial is prolonged and likely to take long time in the light of the fact that out of 45 prosecution witnesses, none have been examined so far and detaining the petitioner behind the bars for an indefinite period would amount to violation of Article 21 of the Constitution of India and is against the principle “Bail is a rule, jail is an exception” as elucidated in the judgement of Apex Court in “***Dataram Singh vs. State of Uttar Pradesh and another***;; (2018) 3 SCC 22”.

9. Even further, right to speedy trial is a part of reasonable, fair and just procedure guaranteed under Article 21. This constitutional right cannot be denied to the accused as is the mandate of the Apex court in “***Hussainara Khatoon and ors (IV) v. Home Secretary, State of Bihar, Patna***”, (1980) 1 SCC 98; wherein it was held as under:

“10. Directions given by this Court in *Hussainara Khatoon (supra)* to this effect were left to be implemented by the High Courts ***Hussainara Khatoon and ors. (VII) etc. v. Home Secretary, Bihar and ors. etc.*** -(1995) 5 SCC 326 - para 2 are as follows :

"2. Since this Court has already laid down the guidelines by orders passed from time to time in this writ petition and in subsequent orders passed in different cases since then, we do not consider it necessary to restate the guidelines periodically because the enforcement of the guidelines by the subordinate courts functioning in different States should now be the responsibility of the different High Courts to which they are subordinate. General orders for release of undertrials without



CRM-M-32459-2024

-5-

reference to specific fact-situations in different cases may prove to be hazardous. While there can be no doubt that undertrial prisoners should not languish in jails on account of refusal to enlarge them on bail for want of their capacity to furnish bail with monetary obligations, these are matters which have to be dealt with on case-to-case basis keeping in mind the guidelines laid down by this Court in the orders passed in this writ petition and in subsequent cases from time to time. Sympathy for the undertrials who are in jail for long terms on account of the pendency of cases has to be balanced having regard to the impact of crime, more particularly, serious crime, on society and these considerations have to be weighed having regard to the fact-situations in pending cases. While there can be no doubt that trials of those accused of crimes should be disposed of as early as possible, general orders in regard to judge strength of subordinate judiciary in each State must be attended to, and its functioning overseen, by the High Court of the State concerned. We share the sympathetic concern of the learned counsel for the petitioners that undertrials should not languish in jails for long spells merely on account of their inability to meet monetary obligations. We are, however, of the view that such monitoring can be done more effectively by the High Courts since it would be easy for that Court to collect and collate the statistical information in that behalf, apply the broad guidelines already issued and deal with the situation as it emerges from the status reports presented to it. The role of the High Court is to ensure that the guidelines issued by this Court are implemented in letter and spirit. We think it would suffice if we request the Chief Justices of the High Courts to undertake a review of such cases in their States and give appropriate directions where needed to ensure proper and effective implementation of the guidelines. Instead of repeating the general directions already issued, it would be sufficient to remind the High Courts to ensure expeditious disposal of cases...."

(emphasis added)

10. Moreover 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. And court also observed that the Right to Speedy Trial from the point of view of the accused are:

- I. The period of remand and pre-conviction detention should be as short as possible. In other words, the accused should not be subjected to unnecessary or unduly long incarceration prior to his conviction;
- II. The worry, anxiety, expense and disturbance to his vocation and peace, resulting from an unduly prolonged investigation, inquiry or trial should be minimal; and
- III. Undue delay may well result in impairment of the ability of the accused to defend himself, whether on account of death, disappearance or non-availability of witnesses or otherwise.

11. In view of the aforesaid discussions made hereinabove, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

12. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

13. Petition is allowed in above terms.

(SANDEEP MOUDGIL)
JUDGE

17.07.2024
anuradha

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