



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-34079-2024
DECIDED ON: 23.07.2024

CHANDERPAL

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Siddharth Sihag, Advocate and
Ms. Sakshi Sharma, Advocate
for the petitioner.

Mr. B.S. Virk, Sr. DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Section 483 of Bhartiya Nagarik Suraksha Sanhita, 2023 (read with analogous provision under Section 439 Cr.P.C.) for grant of regular bail to the petitioner in FIR No.972, dated 15.12.2023, under Sections 115, 120-B, 294, 323, 34 and 506 IPC (to which offence under Section 34 IPC was deleted later on), registered at Police Station Barwala, District Hisar.

2. Learned counsel for the petitioner submits as per the prosecution story, co-accused of the petitioner, namely, Santosh (wife of the complainant) was having extra-marital affair with the present petitioner and they both were conspiring over a phone conversation to hire a truck driver so as to kill the complainant and show his death as an accident and in another

conversation they both were conspiring to kill the complainant through poison.

3. On the other hand, learned State counsel has filed the custody certificate of the petitioner today in Court, which is taken on record. According to which, the petitioner is behind the bars for 07 months and 06 days and is not involved in any other case. He has opposed the prayer made in the present petition stating that there is direct evidence against the petitioner conspiring the murder of the complainant in connivance with his wife Santosh (co-accused of the petitioner). Except this bald allegations, nothing incriminating material has been produced by the State Counsel.

4. Be that as it may, considering the custody period i.e. 07 months and 06 days for which the petitioner has suffered incarceration; the petitioner is not involved in any other case, meaning thereby he is a habitual offender; added with the fact that challan stands presented on 14.02.2024 meaning thereby investigation is complete and custodial interrogation of the petitioner would be a futile exercise which would serve no purpose and trial will take long time to conclude as there are 11 witnesses cited by the prosecution to be examined.

5. 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 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)

6. 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.

7. Looking into the totality of facts and circumstances, the petitioner deserves the concession of regular bail.

8. Hence, 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.

9. In the afore-said terms, the present petition is hereby allowed.
10. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

23.07.2024
Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

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