



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-35204-2024
DATE OF DECISION: 30.07.2024

KARANDEEP SINGH ALIAS KARAN ALIAS KARANBIR
SINGH ALIAS KARAN ...PETITIONER

Versus

STATE OF PUNJAB ... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. R.S. Sidhu, Advocate for the petitioner(s).

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 for the grant of regular bail to the petitioner in FIR No.113 dated 07.07.2023, under Sections 364, 34 IPC, registered at Police Station Patti, District Tarn Taran.

2. The above-mentioned FIR is reproduced below :-

‘Statement of Kulwant Singh s/o Mahinder Singh r/o Kairon, aged about 56/57 years. Mobile No. 7526898526, it is stated that I am resident of abovementioned address and doing the work of labour. I have two sons. My elder son is a truck driver and even now he has gone out of the state on a truck, he has four daughters and one son. On dated 07.07.2023, I alongwith my wife Harmeet Kaur and 8 month old grandson Karanpal Singh had gone to village Bhikhiwind on my motorcycle to my relatives house and my daughter in law Sandeep Kaur had gone to sow paddy crop. When we were returning back, my wife was sitting as pillion rider on the



motorcycle and my grandson Karanpal was in her lap. When we were reached about ½ K.M away from village Kairon and time was about 3:30 PM, then one motorcycle with two persons with muffled faces snatched my grandson Karanpal aged about 8 months from my wife and my wife was also fell down from the motorcycle and suffered many injuries. I have apprehension that the persons who have snatched our grandson Karanpal, might kill him. Till now we are looking for him at our own, but he did not found. Statement got recorded. Action be taken against the unknown persons.'

3. **Arguments addressed by counsel for petitioner/s**

Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. He has been in custody since 10.07.2023. He has further argued that similarly situated co-accused Jagdish Singh @ Jagjit Singh @ Jagga and Jobanjit Singh have already been granted the concession of regular bail by this Court vide orders dated 20.05.2024 and 17.07.2024 passed in CRM-M-24293-2024 and CRM-M-32854-2024 respectively. He has further argued that the antecedents of the petitioner are clean.

Notice of motion.

On the asking of Court, learned State Counsel appearing on advance notice, accepts notice on behalf of respondent-State and has filed the custody certificate of the petitioner, which is taken on record. According to which, the petitioner is behind bars for last 1 year and 16 days.

4. **Submissions by the State**

Learned State Counsel submits on instructions from Investigating Officer opposes the prayer for grant of bail but is not in a position to controvert the submissions made by counsel for the



petitioner. He informs the Court that in this case Challan stands presented on 03.11.2023 and charges stands framed on 08.12.2023.

5. Obiter Dicta

From the above case it can be culled out the petitioner has already suffered sufficient period in custody i.e. 1 year and 16 days, similarly situated co-accused have already been granted concession of bail by this Court, and 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 after challan stands presented on 03.11.2023 and charges stands framed on 08.12.2023, out of 13 prosecution witnesses, none has 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”.

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)

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.

6. **Order**

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.

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

The petition in the aforesaid terms stands allowed.

(SANDEEP MOUDGIL)
JUDGE

30.07.2024
anuradha

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