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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-35431-2024
Decided on : 30.08.2024

Harkirat Singh @ Sagar
... Petitioner

Versus

State of Punjab
... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present : Mr. Rakesh Kumar, Advocate
for the petitioner

Mr. Vinay Kumar, DAG Punjab

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.63 dated 06.06.2022, registered under Sections 307, 353, 186 and 427 IPC, at Police Station Sadar Kapurthala, District Kapurthala.

2. The facts in brief are that on 06.06.2022 ASI Thakur Singh along with his police party was on duty at Jalandhar Road, Kapurthala, where Inspector Jarnail Singh, incharge CIA staff, informed him that one Verna car white in colour bearing No. PB-09-U-7380 which was being driven by one young man (petitioner) was coming from Kapurthala side to Jalandhar side and the said car should be stopped. ASI Thakur Singh on receipt of information alongwith his police party raised barricades and after some time above said car was seen coming and ASI Thakur Singh signalled the car to stop, but the petitioner rammed the car in



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Government vehicle parked there and thereafter hit ASI Thakur Singh with the car, with intention to kill him, due to which, ASI Thakur Singh sustained grievous injuries on his person and also suffered a fracture, and later the petitioner fled away in his car. The complainant (ASI Thakur Singh) was admitted in hospital. Thereafter the investigation, after registration of FIR, was initiated during the course of which statements of witnesses were recorded, accused was arrested, the offence under Sections 332, 333 and 201 were added vide DDR no.27 dated 12.05.2021 subsequently and the final report under Section 173 Cr.P.C. was filed under Sections 307,353,186,427,332 and 333 of the Indian Penal Code.

3. Learned counsel for the petitioner *inter alia* submits that the present case is based on the manipulated and false version of the police and the story of hitting the police vehicle is also false because the police party wanted to implicate the petitioner in false case on the basis of concocted and false secret information, thereafter the police due to the enmity planted 200 grams of heroin and another FIR No. 125 dated 06.06.2022 was subsequently recorded. It is further submitted that no injury under Section 307 IPC has been received by the complainant and dealing with all the contention, Coordinate Bench has already passed the order, and has granted the bail to the petitioner vide order dated 13.05.2024 passed in CRM-M-5345-2024. He further submits that there are five more cases registered against the petitioner, however, he is on bail in two cases and has undergone sentence in one case. Learned counsel further submits that the petitioner has already undergone an actual custody of 02 years, 01 month and 09 days. 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.



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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 02 years, 01 month and 09 days. He further submits that there are five more cases registered against the petitioner, however, he is on bail in two cases and has undergone sentence in one case. He further submits that the charges were framed on 11.10.2022 and out of 18 prosecution witnesses, one prosecution witness 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 regular bail.

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 11.10.2022 and out of 18 prosecution witnesses, only one has been examined till date. The petitioner has undergone actual custody of 02 years, 01 month and 09 days and there are five more cases registered against him, however, in one case he has been convicted.

7. As far as the pendency of other cases and involvement of the petitioner in other cases is concerned, reliance can be placed upon 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



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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.

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”**.

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.

- 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.

30.08.2024
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(KIRTI SINGH)
JUDGE

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