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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-37068-2024 (O&M)
Date of decision: 07.08.2024

Satish @ Titi

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. S.S. Jattan, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. This second petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 seeking regular bail in case bearing FIR No.135 dated 12.08.2021 under Sections 307, 34 of the Indian Penal Code, 1860 (for short 'IPC') and Section 25 of Arms Act (Sections 120-B & 212 of IPC and Section 27 of Arms Act added later on), registered at Police Station Kalka, District Panchkula.

2. The present FIR was registered on the complaint made by complainant Ujagar Singh, on the allegations that on 11.08.2021 at about

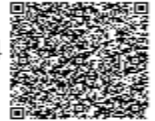
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09.30 p.m., when he was having meal, his son Baljeet told him that he was called outside the gate by the petitioner. After having meal, the complainant along with his son went outside. The petitioner was standing at the gate and Kaku was sitting on the motorcycle. Without any conversation, the petitioner fired a shot towards the complainant, which hit on his left shoulder. Thereafter, both the accused persons fled away from the spot on the motorcycle. His family members shifted the complainant to Govt. Hospital, Kalka, from where he was referred to PGIMER, Chandigarh. A request was made to take necessary legal action against the accused.

3. Learned counsel for the petitioner, *inter alia*, contends that earlier petition filed by the petitioner for grant of regular bail i.e. CRM-M-58841-2023 was dismissed as withdrawn on 24.01.2024 and he has filed this second petition in view of changed circumstances that now the complainant-injured witness along with three eyewitnesses have been examined by learned trial Court. The petitioner was arrested on 24.12.2021 and since then, he is in custody and the allegation against him is of firing a single shot, which hit on the left shoulder of the complainant. The trial of the case is likely to take long time in its conclusion and delay in trial cannot be attributed to the petitioner, as he is behind bars and in spite of passing of about 02 years and 07 months, the prosecution has failed to conclude the trial. As such, right of the petitioner under Article 21 of the Constitution of India stands violated.

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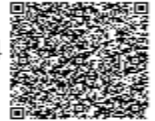


4. *Per contra*, learned State counsel opposes the prayer for grant of regular bail to the petitioner on the ground that the petitioner is a habitual offender and he is the main accused. She produces the custody certificate dated 06.08.2024 of the petitioner in the Court today, which is taken on record.

5. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the petitioner is behind bars since 24.12.2021 and the trial of the case has not even reached halfway mark as only 08 out of 25 prosecution witnesses have been examined so far. The culpability, if any, would be determined at the time of trial. Keeping the petitioner in further detention without the prospect of the trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India.

6. Keeping in view the law laid down by the Hon'ble Supreme Court of India in ***Prabhakar Tewari Vs. State of U.P. and another, 2020 (1) R.C.R. (Criminal 831)*** and ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and Another, 2012 (2) SCC 382***, involvement of the petitioner in other cases would not be a ground to refuse grant of concession of regular bail.

7. The foundational concept of the criminal jurisprudence is to ensure speedy trial. The Hon'ble Supreme Court has repeatedly reiterated that right to speedy trial is enshrined in Article 21 of the Constitution of India. Speedy trial would cover investigation, enquiry, trial, appeal, revision



and retrial etc. i.e. everything starting with the accusation against the accused and expiring with the final verdict of the last Court.

8. It has further been held in law that if a person is deprived of his liberty under a procedure which is not reasonable, fair, or just, such deprivation would be violative of his fundamental right under Article 21 of the Constitution of India. The procedure so prescribed must ensure speedy trial for determination of the guilt of such person. Some amount of denial of personal liberty cannot be avoided, but if the period of deprivation pending trial becomes excessively long, the fairness guaranteed by Article 21 of the Constitution of India would come into play.

9. In this regard, reference is being made to the law laid down by the Hon'ble Supreme Court in the context of right to speedy trial under Article 21 of the Constitution of India on the following decision:- ***Akhtari Bi Vs. State of M.P., (2001) 4 SCC 355, Surinder Singh Alias Shingara Singh Vs. State of Punjab, (2005) SCC (Crl) 1674, P. Ramachandra Rao Vs. State of Karnataka, (2002) 4 SCC 578, Babu Singh and others Vs. State of U.P., (1978) 1 SCC 579, Takht Singh and others Vs. State of M.P., (2001) 10 SCC 463; Special Leave to Appeal (Crl) No.2356 of 2010, Kushal Singh Vs. State of U.P. (2JJ.) and Fazal Vs. State of Uttar Pradesh, (2012) 5 SCC 752.***

10. A two Judge Bench of the Hon'ble Supreme Court in ***Satender Kumar Antil Vs. CBI, (2022) 10 SCC 51***, with respect to prevailing



conditions of undertrial prisoner in India has observed as under: -

“6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other.”

11. In view the above, present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, petitioner Satish @ Titi is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of learned Illaqa Magistrate/trial Court concerned.

12. The present petition seeking regular bail to the petitioner is allowed solely on the ground of long custody already undergone by him and without commenting on the merits of the case lest it may prejudice the outcome of the case pending before learned trial Court.

13. Nothing observed hereinabove shall be construed as expression

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of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

07.08.2024
vishnu

[HARPREET SINGH BRAR]
JUDGE

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