



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

CRM-M-38969-2024

Date of decision : 21.08.2024

Rocky

.....Petitioner

versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Abhishek Thakur, Legal Aid Counsel
for the petitioner.

Mr. J.S. Arora, DAG, Punjab.

RAJESH BHARDWAJ, J. (Oral)

1. Present petition has been filed for grant of regular bail to the petitioner in case bearing FIR No.88, dated 26.08.2018, under Sections 458/380/323/342 IPC and Section 460 of IPC added later on, registered at Police Station Sadar Sangrur, District Sangrur.

2. Succinctly the facts of the present case are that the statement of Sukhdev Singh, son of Amar Singh was recorded wherein he alleged that he was working as security guard in the godown of SS Open Godown Punsup Company. On 25.08.2018, he along with Bahadur Singh, Chamkaur Singh, Jagdev Singh and Akbar Khan, who was appointed as security guard, had reached on the duty at about 6.30 p.m. At about 1.30 a.m., when he went inside and switched on the light of the torch, 5-6 unknown persons armed with *Danda* caught hold him and started beating him. The injuries were inflicted on his face, legs and arms. They tied Bahadur Singh and threw him there and then another 4-5 persons tied Akbar Khan and Jagdev Singh @ Nanak. They were threatened that in case they made the noise, they would be given beatings. Akbar Khan was



severely beaten by them. At about 4.00 a.m., when the recital of the Gurudwara Sahib started, all these persons escaped from the godown committing theft of 248 bags of wheat by loading the same in one unidentified vehicle. Thereafter they got themselves free and on reaching the police, they lodged this complaint. A request was made to take legal action against the culprits. On registration of the FIR, the investigation commenced. Akbar Khan, who was given severe beatings was admitted in the hospital, however he succumbed to the injuries. Thus, the offence under Section 460 of IPC was also added. On completion of the investigation, the challan was filed against 07 of the accused. The petitioner was arrested on 18.10.2018. He approached the Court of learned Additional Sessions Judge, Sangrur praying for the grant of bail. However on hearing both the sides, the learned Additional Sessions Judge, Sangrur declined the same vide his order dated 31.12.2018. Being aggrieved, the petitioner is before this Court praying for the grant of regular bail by way of filing the present petition.

3. Learned counsel for the petitioner, appearing as Legal Aid counsel, has contended before this Court that the petitioner has been falsely implicated in this case. He submits that in the allegations as made in the FIR, no name of any accused has been mentioned and these are only bald allegations against the unknown persons. He submits that during investigation, the petitioner has been arrested in this case and he is languishing in the Jail from the last more than 5½ years. He has submitted that after his dismissal of the bail petition by the learned Additional Sessions Judge, this is the first petition filed through the Legal Aid. He has submitted that during this period, the trial is not concluded and there



are no prospects of the conclusion of the trial in the near future as well. He has submitted that *de hors* the gravity of the offence, the speedy trial is the right of the accused which is miserably defeated in the present case. He submits that co-accused namely, Baljit Singh, Sanjay Rishi and Rajesh Kumar @ Ramu @ Raju have been granted regular bail vide orders dated 18.04.2024, 31.05.2024 and 25.07.2024 by this Court. He has submitted that keeping in view the over all facts and circumstances of the case, especially the custody of the petitioner, he deserves to be granted bail.

4. *Per contra*, learned counsel for the State, on the other hand has opposed the submissions made by counsel for the petitioner. He however, on instructions, has submitted that the petitioner along with the co-accused committed theft in the godown and the person, namely, Akbar Khan, who was given severe beatings later on succumbed to his injuries. He has submitted that the petitioner is involved in one other cases i.e. FIR No.143 dated 02.09.2018 under Sections 342/457/380/379-B of IPC, P.S. Sadar Dhuri. He submits that out of 26 prosecution witnesses, 14 witnesses have been examined till date. He thus submits that the petitioner has no case for the grant of bail and thus, the present petition being devoid of any merit deserves to be dismissed.

5. I have heard counsel for the parties and perused the record.

6. After hearing learned counsel for the parties and perusing the record, it is apparent that the petitioner was arrested in this case on 18.10.2018 and since then, he is behind bars. The investigation in this case has been completed and after framing of the charges, as per the submissions made, out of 26, only 14 prosecution witnesses have been examined till date. Though the petitioner is involved in one another case,

however the custody of the petitioner is admittedly more than 5½ years in the present case. The Court is in agreement with the submissions made by learned counsel from the Legal Aid that speedy trial is a right of every accused. Thus in the facts and circumstances of the case, this Court finds that long custody of the petitioner cannot be ignored simply on the ground of pendency of the another case.

7. The veracity of the allegations would be assessed only after the conclusion of trial and on the appreciation of evidence to be led by both the parties before the trial Court.

8. This Court would refrain itself from commenting anything on the merits of the case. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

9. The learned Court is directed to ensure that local surety is furnished by the petitioner at the time of submission of bail/surety bonds. In case the bail bonds/surety bonds are not furnished within 10 days from today then the period spent in custody by the petitioner beyond 10 days from today will not be counted in this case. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

21.08.2024
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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