

2024:PHHC:108828



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

219/2

1. CRM M-42401 of 2022 (O&M)
Date of Decision: 22.08.2024

Ramandeep Kaur ...Petitioner
Versus
State of Punjab ... Respondent

2. CRM M-51910 of 2022

Sandeep Singh ...Petitioner
Versus
State of Punjab ... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Yashpal Thakur, Advocate, for the petitioner
in CRM M-42401 of 2022.

Mr. Rakesh Gupta, Advocate for the petitioner
in CRM M-51910 of 2022.

Mr. M.S. Bajwa, DAG, Punjab.

Mr. G.S. Salana, Advocate, for the complainant.

N.S.SHEKHAWAT, J. (Oral)

1. By way of this order, I shall dispose off two petitions,
i.e., CRM M-42401 of 2022 titled as “Ramandeep Kaur Vs. State
of Punjab”, and CRM M-51910 of 2022 titled as “Sandeep Singh
Vs. State of Punjab”, whereby, the petitioners have prayed for grant

of bail to them in case FIR No.313 dated 19.09.2021 registered under Sections 302, 494 and 34 IPC at Police Station Civil Lines Patiala, District Patiala.

2. The FIR in the present case was registered on the basis of statement made by Gurpreet Singh son of late Hardial Singh, brother of Manpreet Kaur (since deceased). His statement which forms the basis of registration of the FIR in the present case reads as under:-

“It is stated that I am working as Accounts Clerk in Warehousing Corporation. My parents had died some time back. We are three brother and sisters. I am elder and my two sisters are younger to me. My one sister Amandeep Kaur is married to Parminder Singh son of Upkar Singh resident of Gobindgarh and is a housewife and I along with my family reside at Chandigarh. My youngest sister Manpreet Kaur is doing job in District Courts, Patiala and is married to Sandeep Singh son of Surjit Singh resident of village Kheri Gillan, PS Bhawanigarh for the last about 4 years and due to dispute between them on some issue, a court case is pending in Court at Patiala with her in-laws. She has been residing alone at my House No.B-448 Lower Mall Road, Patiala for the last about one year. Yesterday on 18.09.2021, my sister Manpreet Kaur had gone to Gurudwara Dhadria Wala for paying obeisance and after that she reached at Samana Chungi, Patiala at about 6:35/40 P.M. My cousin Gurdeep Singh son of Hardial Singh @ Gogi resident of House No.B-4/448 Lower Mall Patiala, was present at the Petrol Pump of Bharat Petroleum, Theekri Wala Chowk, Patiala, who

told me yesterday on 18.09.2021 through telephone that at about 06:35/40 P.M. Manpreet Kaur was coming on foot from Samana Chungi to Theekriwala Chowk, near Petrol Pump, then in front of my eyes, one unknown car driver brought car at a high speed and in dangerous manner and drove the car over Manpreet Kaur, due to which Manpreet Kaur died at the spot and the Car driver ran from the spot immediately thereafter. Gurdeep Singh with the help of passersby took Manpreet Kaur to Rajindra Hospital, Patiala. The death of my sister Manpreet Kaur had taken place due running over the car by driving the car by unknown driver at a high speed and in dangerous manner. You met me outside dead house, Rajindera Hospital. I, in the presence of my cousin brother Gurdeep Singh, have got recorded my statement to you, read, heard and is correct. Action may be taken. Sd/- Gurpreet Singh, supported by Gurdeep Singh attested Satwant Singh, ASI Chowki Model Town, Patiala dated 19.09.2021”.

3. Learned counsel for the petitioners contend that as per the admitted case of the prosecution, the alleged accident dated 18.09.2021 was witnessed by brother of Manpreet Kaur, since deceased and he had lodged the FIR against unknown persons. Sandeep Singh, petitioner was the husband of Manpreet Kaur. Had Sandeep Singh caused the accident, the complainant would have definitely named him as the main accused in the present case. Still further, during the course of investigation, supplementary statement of Gurdeep Singh, cousin of complainant/deceased was recorded on

26.09.2021. In his statement, he stated that on 25.09.2021, Sandeep Singh, petitioner had met him and had confessed his guilt. It is highly unbelievable that an accused would confess his crime of killing of his own wife, in the presence of her brother. Learned counsel further contend that the entire prosecution case suffers from vice of self contradiction and the petitioners have been falsely involved as Sandeep Singh was having a matrimonial dispute with Manpreet Kaur, since deceased. Learned counsel further submit that even no offence under Section 302 IPC is made out in the present case. Still further, the petitioners were arrested in the present case on 26.09.2021 and are in custody for the last about 02 years and 11 months. Even, the material witnesses have already been examined by the prosecution and there are no chances of tampering with the prosecution evidence. Apart from that, the prosecution has only been able to examine 11 witnesses out of total 32 witnesses and the trial is progressing at a very slow speed. Consequently, there are no chances of early conclusion of the trial in the present case.

4. On the other hand, learned State counsel assisted by learned counsel for the complainant has vehemently opposed the submissions made by the learned counsel for the petitioners. Learned counsel submit that Sandeep Singh was earlier married to Manpreet Kaur, since deceased, and at the time of the occurrence, he was having adulterous relationship with Ramandeep Kaur, petitioner and they were residing together. Further, litigation was pending between

Sandeep Singh and Manpreet Kaur, since deceased. Consequently, to get rid of Manpreet Kaur, both the petitioners had committed the murder of Manpreet Kaur by running their car over her. Since, both the petitioners have actively participated in the commission of the crime, they do not deserve to be enlarged on bail in the present case.

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

6. It has been held by the Hon'ble Supreme Court in the matter of **“Ranjan Dwivedi Vs. CBI, through the Director General, 2012(8) SCC 495; 2012 (4) RCR (Criminal) 880”** as follows:-

“14. In Kartar Singh v. State of Punjab, (supra), another Constitution Bench considered the right to speedy trial and opined that the delay is dependent on the circumstances of each case, because reasons for delay will vary. This Court held :

"84. The right to a speedy trial is a derivation from a provision of Magna Carta. This principle has also been incorporated into the Virginia Declaration of Rights of 1776 and from there into the Sixth Amendment of the Constitution of United States of America which reads, "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial...". It may be pointed out, in this connection, that there is a Federal Act of 1974 called 'Speedy Trial Act' establishing a set of time-limits for carrying out the major events, e.g., information, indictment, arraignment, in the

prosecution of criminal cases. [See Black's Law Dictionary, 6th Edn. page 1400].

85. The right to a speedy trial is not only an important safeguard to prevent undue and oppressive incarceration, to minimise anxiety and concern accompanying the accusation and to limit the possibility of impairing the ability of an accused to defend himself but also there is a societal interest in providing a speedy trial. This right has been actuated in the recent past and the courts have laid down a series of decisions opening up new vistas of fundamental rights. In fact, lot of cases are coming before the courts for quashing of proceedings on the ground of inordinate and undue delay stating that the invocation of this right even need not await formal indictment or charge.

86. The concept of speedy trial is read into Article 21 as an essential part of the fundamental right to life and liberty guaranteed and preserved under our Constitution. The right to speedy trial begins with the actual restraint imposed by arrest and consequent incarceration and continues at all stages, namely, the stage of investigation, inquiry, trial, appeal and revision so that any possible prejudice that may result from impermissible and avoidable delay from the time of the commission of the offence till it consummates into a finality, can be averted. In this context, it may be noted that the constitutional guarantee of speedy trial is

properly reflected in Section 309 of the Code of Criminal Procedure.

87. This Court in Hussainara Khatoon v. Home Secretary, AIR 1979 Supreme Court 1360, State of Bihar while dealing with Article 21 of the Constitution of India has observed thus: (SCC p. 89, para 5)

"No procedure which does not ensure a reasonably quick trial can be regarded as 'reasonable, fair or just' and it would fall foul of Article 21. There can, therefore, be no doubt that speedy trial, and by speedy trial we mean reasonably expeditious trial, is an integral and essential part of the fundamental right to life and liberty enshrined in Article 21. The question which would, however, arise is as to what would be the consequence if a person accused of an offence is denied speedy trial and is sought to be deprived of his liberty by imprisonment as a result of a long delayed trial in violation of his fundamental right under Article 21. Would he be entitled to be released unconditionally freed from the charge levelled against him on the ground that trying him after an unduly long period of time and convicting him after such trial would constitute violation of his fundamental right under Article 21."

See also (1) Sunil Batra v. Delhi Administration (I), (2) Hussainara Khatoon (I) v. Home Secretary, State of Bihar, (3) Hussainara Khatoon (IV) v. Home Secretary, State of Bihar, Patna, (4) Hussainara Khatoon (VI) v. Home Secretary, State

of Bihar, Govt. of Bihar, Patna, (5) Kadra Pahadia v. State of Bihar (II), (6) T.V. Vatheeswaran v. State of T.N., and (7) Abdul Rehman Antulay v. R.S. Nayak.

88. Thus this Court by a line of judicial pronouncements has emphasised and re-emphasised that speedy trial is one of the facets of the fundamental right to life and liberty enshrined in Article 21 and the law must ensure 'reasonable, just and fair' procedure which has a creative connotation after the decision of this Court in Maneka Gandhi."

The Court further observed :

"92. Of course, no length of time is per se too long to pass scrutiny under this principle nor the accused is called upon to show the actual prejudice by delay of disposal of cases. On the other hand, the court has to adopt a balancing approach by taking note of the possible prejudices and disadvantages to be suffered by the accused by avoidable delay and to determine whether the accused in a criminal proceeding has been deprived of his right of having speedy trial with unreasonable delay which could be identified by the factors - (1) length of delay, (2) the justification for the delay, (3) the accused's assertion of his right to speedy trial, and (4) prejudice caused to the accused by such delay. However, the fact of delay is dependent on the circumstances of each case because reasons for delay will vary, such as delay in investigation on

account of the widespread ramification of crimes and its designed network either nationally or internationally, the deliberate absence of witness or witnesses, crowded dockets on the file of the court etc."

7. Hon'ble the Supreme Court in **Gudikanti Narasimhulu and others v. Public Prosecutor, AIR 1978 SC 429** has held as under:-

"Bail or Jail"- at the pre-trial or post-conviction stage - largely hinged on judicial discretion. The learned Judge held that personal liberty was too precious a value of our constitutional system recognised under Article 21 that the crucial power to negate it was a great trust exercisable not casually but judicially, with lively concern for the cost to the individual and the community. It was further held that deprivation of personal freedom must be founded on the most serious considerations relevant to the welfare objectives of society specified in the Constitution. The learned Judge quoted Lord Russell who had said that bail was not to be withheld as a punishment and that the requirements as to bail were merely to secure the attendance of the prisoner at trial. According to V.R. Krishna Iyer, J., the principal rule to guide release on bail should be to secure the presence of the applicant to take judgment and serve sentence in the event of the Court punishing him with imprisonment. After holding that it makes sense to assume that a man on bail has a better chance to prepare and present his case than one remanded in custody the learned Judge

observed that if public justice is to be promoted mechanical detention should be demoted.

8. In **Gurbaksh Singh Sibbia etc Vs The State of Punjab, AIR 1980 SC 1632**, Hon'ble the Supreme Court has observed as under:-

*“Judges have to decide cases as they come before them, mindful of the need to keep passions and prejudices out of their decisions. The Court has also observed that in which case bail should be granted and in which case it should be refused is a matter of discretion. The court found it interesting to note that as long back as in 1924 it was held by the High Court of Calcutta in Nagendra Vs. King Emperor, AIR 1924 Calcutta 476, that the object of bail was to secure the attendance of the accused at the trial, that the proper test to be applied in the solution of the question whether bail should be granted or refused was whether it was probable that the party would appear to take his trial and that it was indisputable that bail was not to be withheld as a punishment. The Supreme Court also referred to the observation of the Allahabad High Court in **K.N. Joglekar Vs. Emperor, AIR 1931 Allahabad 504**, that Section 498 of the Old Code which corresponds to Section 439 of the New Code, conferred upon the Sessions Judge or the High Court wide powers to grant bail which were not handicapped by the restrictions in the preceding Section 497 which corresponds to the present Section 437. The Allahabad High Court had also observed that there was no hard and fast rule and no inflexible principle governing the exercise of the discretion conferred by Section 498 and*

*that the only principle which was established was that the discretion should be exercised judiciously. The Supreme Court referred also the decision of the Allahabad High Court in **Emperor Vs. H.L. Hutchinson, AIR 1931 Allahabad 356**, wherein it was held that the principle to be deduced from the various sections in the Cr.P.C. was that grant of bail is the rule and refusal is the exception, that as a presumably innocent person, the accused person is entitled to freedom and every opportunity to look after his own case and to establish his innocence and that an accused person who enjoys freedom is in a much better position to look after his case and to properly defend himself than if he were in custody. The High Court had also held that it would be very unwise to make an attempt to lay down any particular rules which would bind the High Court, having regard to the fact that the legislature itself left the discretion of the Court unfettered. According to the High Court, the variety of cases that may arise from time to time cannot be safely classified and it is dangerous to make an attempt to classify the cases and to say that in particular classes bail may be granted but not in other classes. The Supreme Court apparently approved the above views and observations and held (vide paragraph 30) as follows :*

"It is thus clear that the question whether to grant bail or not depends for its answer upon a variety of circumstances, the cumulative effect of which must enter into the judicial verdict. Any one single circumstance cannot be treated as of universal

validity or as necessarily justifying the grant or refusal of bail."

9. At this stage, it is observed that the object of the bail is to secure the presence of the accused at the trial only. It is also observed that the object of bail is neither punitive nor preventive and deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon. Hon'ble the Supreme Court has observed in catena of judgments that when a person is punished by denial of bail in respect of any matter upon which he has not been convicted it would be contrary to the concept of personal liberty enshrined in the Constitution except in cases where there is reason to believe that he may influence the witnesses. It is appropriate to say that pre-conviction detention should not be resorted to, except in cases of necessity to secure attendance at the trial or upon material that the accused will tamper with the witnesses if left at liberty.

10. From the allegations levelled in the present FIR, it is apparent that the FIR was initially registered in the present case against the unknown persons. However, after more than a week, the supplementary statement of Gurdeep Singh was recorded and he had named the petitioners as the persons, who had allegedly caused the accident, resulting in the death of Manpreet Kaur, since deceased. However, the petitioners were arrested in the present case on 26.09.2021 and the material witnesses in the instant case have already

been examined by the prosecution. Even, after a lapse of about 03 years, the prosecution has only been able to examine only 11 witnesses out of total 32 prosecution witnesses. Thus, further custody of the petitioners will not serve any meaningful purpose in the present case.

11. In view of the above, without commenting any further on the merits, the present petitions are allowed and the petitioners are ordered to be released on bail on their furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/CJM concerned subject to the following conditions:-

(i) The petitioners 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 them to disclose such facts to the Court or to any other authority.

(ii) The petitioners shall remain present before the Court on the dates fixed for hearing of the case.

(iii) The petitioners shall not absent themselves from the Court proceedings except on the prior permission of the Court concerned.

(iv) The petitioners shall surrender their passports, if any, (if already not surrendered), and in case they are not holder of the same, they shall swear an affidavit to that effect.

(v) The petitioners shall also file their affidavit before the concerned Court, mentioning their ordinary place of residence and number of mobile phone, which shall be used by them during the pendency of the trial. In case of

change of place of residence/mobile number, they shall share the details with the concerned Court/learned Trial Court.

(vi) In case, the petitioners get involved in any other criminal activity, during the pendency of the trial, it shall be viewed seriously and the prosecution shall be at liberty to move an appropriate application for cancellation of bail granted to the present petitioners.

(vii) The concerned Court may insist two heavy local surties and may also impose any other condition, in accordance with law, while accepting the bails bonds and surety bonds of the petitioners.

(viii) The petitioners shall report every 1st Monday in English calander month before the concerned SHO till the conclusion of the trial and SHO shall mark their presence by making an entry in the Rojnamcha. In case, they do not report on every 1st Monday before the concerned SHO, it shall be viewed seriously and the concession granted to them shall be liable to be cancelled and the State of Punjab shall be at liberty to move an appropriate application in this regard.

22.08.2024
amit rana

(N.S.SHEKHAWAT)
JUDGE

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