



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M No.42357 of 2024 (O & M)
Date of decision : 4.10.2024

Gurnam SinghPetitioner
Versus
State of HaryanaRespondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Ms. Himani Anand, Advocate and
Ms. Vandana, Advocate, for the petitioner
Ms. Ankita Ahuja, AAG Haryana

SUMEET GOEL, J. (ORAL)

1. The instant second petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, for grant of regular bail to the petitioner in case FIR No.207 dated 01.6.2023, under Sections 302, 34 of IPC (Section 302 of IPC deleted and Section 306 of IPC added, however, alternate charge under Section 302 of IPC has been added at the time of framing of charges), registered at Police Station Sadar Pehowa, District Kurukshetra.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

'Sir, I request you that I am Mohan Lal, son of Dhup Singh, resident of Chhaut, District Kaithal. I am working at the post of MTS in Panjab University, Chandigarh. We are four brothers and sisters. The eldest is Narendra Kumar, younger than him is Suman and I am younger than Suman. And my youngest sister was Poonam Rani, who was married to Gurnam son of Puran Chand resident of Ruan, District Kurukshetra on



27.03.2012. She has two children. The eldest boy whose name is Naksh and the younger girl whose name is Hanika. Naksh is 10 years old and Hanika is 7 years old. Within few days of marriage, my sister's husband Gurnam used to beat and fight with my sister after drinking alcohol and used to torture her mentally and physically. My sister told us about this several times. Many Panchayats were held several times and an application was also given with the police several times. Despite that, my sister's husband Gurnam, did not improve, many times physical assault was done by Gurnam and her mother, my sister Poonam told about it. Yesterday on 31.05.2023, I got a call on my mobile no. 9541889965 from Gurnam's mobile no. 9728524250 at around 4:32. At that time my sister Poonam told me that Gurnam and his mother were conspiring to kill her. At that time, we talked for about 21 minutes. I told my sister Poonam that there is no need to be afraid. I am coming. After that when I reached there, I saw that Poonam was not there. While Gurnam was drinking alcohol there. When I asked about my sister Poonam, he started abusing me. And started scuffling. Refused to give information about my sister Poonam. After that my sister's son told that my mother was unwell, have taken her to the hospital. After that, I forcefully took Gurnam with me and reached Balaji Arogya Hospital, Kurukshetra. After that Gurnam started threatening Poonam in the hospital also. Due to which the nursing staff of the hospital threw Gurnam out of the hospital. After that, I met my younger sister Poonam, my sister cried and told me that Gurnam and her mother forcefully poisoned me, after which she told the whole incident to her family members also. At around 1 am in the morning on 01.06.2023, my sister died due to poison given to her forcefully. Therefore, I request you with folded hands that legal action should be taken against those responsible for my sister's death. SD/- MOHAN LAL Applicant Mohan Lal son of Dhup Singh resident Chhaut, District Kaithal 9541889965. '

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 4.6.2023. Learned counsel has further submitted that the trial Court has framed charges under Section 306 of IPC and, in alternative, under Section 302 of IPC, which is against the mandate of law. Learned counsel has further argued that the petitioner has been



falsely implicated into the FIR in question. Learned counsel for the petitioner has further submitted that the first bail petition preferred by the petitioner was withdrawn on 12.3.2024, but the trial is not progressing at the desired pace which factum is clearly reflected from the zimni orders dated 24.4.2024, 3.6.2024, 23.7.2024 and 27.8.2024 passed by the trial Court (copies whereof have been appended as Annexures P-11 to P-14 respectively). Thus, regular bail is prayed for.

4. Learned State counsel has opposed the present petition by arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 19.9.2024 in Court, which is taken on record.

5. I have heard counsel for the parties and have gone through the available records of the case.

6. The petitioner was arrested on 4.6.2023 whereinafter investigation was carried out and challan was presented on 14.7.2023. Total 30 prosecution witnesses have been cited, out of which 18 already stand examined. The complainant as also the child witness have also been examined. The rival contention of learned counsel for the parties; as to whether the petitioner has been falsely implicated into the FIR in question & whether the alternative charge under Section 302 of IPC could have been framed alongwith the charge under Section 306 of IPC; shall be gone into during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice



the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence.

7. The first bail petition preferred by the petitioner was withdrawn on 12.3.2024. A perusal of the zimni orders dated 24.4.2024, 3.6.2024, 23.7.2024 and 27.8.2024 does reflect that the trial is not progressing at the desired pace and fault thereof cannot be fastened upon the petitioner in any manner. Therefore, this Court is inclined to consider the instant petition (the second regular bail petition) preferred on behalf of the petitioner.

Further, as per custody certificate dated 3.10.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of more than one year, three months and sixteen days and is not shown to be involved in any other case.

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

8. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.



- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cell-phone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaqa Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.

9. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

10. Ordered accordingly.

11. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

12. Pending miscellaneous application(s), if any, stand disposed of accordingly.

(SUMEET GOEL)
JUDGE

4.10.2024
Ashwani

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