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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-43349-2024
Date of Decision: 17.09.2024

Sukhwinder Singh @ Laddi
...Petitioner

Versus

State of Punjab
...Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present:-. Mr. J.S. Thakur, Advocate
for the petitioner.

Mr. R.S. Thind, DAG Punjab

KIRTI SINGH, J.(Oral)

The jurisdiction of this Court under Section 483 BNSS, 2023 has been invoked for grant of regular bail to the petitioner in case FIR No.130 dated 14.07.2023, under Sections 379-B and 34 IPC, registered at Police Station Police Division No. 6, District Jalandhar Commissionerate.

2. Learned counsel for the petitioner submits that petitioner has been falsely implicated in this case. The FIR was registered against unknown persons. Neither the number of motorcycle had been mentioned in the FIR nor any description of person who had snatched the hand bag had been given. He further submits that petitioner was nominated without there being any incriminating evidence against him. The petitioner is in custody since 18.07.2023. He further submits that co-accused has already been granted the concession of regular bail by



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3. Upon advance notice, learned State counsel has put in appearance and submits that the petitioner was actively involved in the commission of the offence. He has filed custody certificate in Court today and the same is taken on record. As per custody certificate, the petitioner has undergone actual custody of 01 year, 01 month and 29 days and there are 24 more cases registered against him, out of which in 14 cases he has been acquitted and 8 cases are still pending. He on instructions from the concerned investigating officer submits that charges were framed on 09.10.2023 and till date, out of total 8 prosecution witnesses only 02 have been examined. He, however, submits that in view of the serious allegations against the petitioner and considering the aspect that the petitioner is a habitual offender he is not entitled to the concession of regular bail.

4. Heard the rival submissions made by learned counsel for the parties.

5. The charges were framed on 09.10.2023 and out of total 08 prosecution witness, 02 have been examined till date. The petitioner has undergone actual custody of 01 year, 01 month and 29 days. Further detention of the petitioner will not serve any useful purpose and will be 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.**

6. 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



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flowing from Article 21 encompasses all the stages, namely the stage of investigation, inquiry, trial, appeal, revision and retrial.

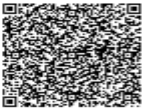
7. As regards the submission of learned State counsel that petitioner is involved in other/one more criminal case(s), reference is placed upon the judgment of the Hon'ble Supreme Court in **Maulana Mohd. Amir Rashadi Vs. State of U.P. and another, 2012 (2) SCC 382** in which, it is held that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other/another case(s). The relevant portion of the said judgment is reproduced herein-below:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

8. The veracity of the allegations leveled against the petitioner shall be established during the course of the trial. Admittedly, the charges were framed and none of the prosecution witness has been examined till date. The petitioner has undergone actual custody of 01 year, 01 month and 09. Therefore, this Court is of the view that further incarceration of the petitioner would not serve any purpose.

9. Without commenting anything on the merits of the case, lest it ramay prejudice the trial, the present petition is allowed and the petitioner is ordered to be released on regular bail on her 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:-



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- (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 she 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.

10. 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.

11. 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.

(KIRTI SINGH)
JUDGE

17.09.2024
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No