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

CRM-M-45198-2023

Date of Decision: 29.04.2024

Sahil Qureshi

...Petitioner

VS.

State of Punjab

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Neeraj Yadav, Advocate
for the petitioner.

Mr. I.P.S. Sabharwal, DAG, Punjab.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant regular bail in case FIR No.0094 dated 11.05.2020 registered under Sections 302, 459, 323, 506, 148, 149 of IPC, at Police Station City Dhuri, Sangrur.

2. Learned counsel for the petitioner contends that the petitioner has been falsely involved in the present case alongwith other co-accused by assigning a false role. In fact, the complainant had named several accused, just to ensure the false implication of those persons. Learned counsel further contends that in the present case, the complainant-Harpreet Kaur has already been examined as a prosecution witness and she did not identify the present petitioner before the Court and the chances of his conviction are bleak. Learned counsel further contends that in the present case, the petitioner was arrested on 11.05.2020 and is in custody for the last more than 03 years and 11

months. He further contends that since the material witness has already been examined by the prosecution, there are no chances of tampering with the prosecution evidence. Learned counsel further contends that even the trial has delayed by the prosecution, just to ensure the petitioner remains in custody for a longer period. Learned counsel for the petitioner has further relied upon the judgments passed 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”** and **“Gudikanti Narasimhulu and others v. Public Prosecutor”**, AIR 1978 SC 429.

3. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner on the ground that the petitioner had stabbed Gurdeep Singh, since deceased in multiple times and very serious allegations have been levelled against him. He further contends that the petitioner may commit similar offence, if released on bail by this Court. He further admits that no other criminal case was ever registered against the present petitioner.

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

5. In the present case, the petitioner was arrested on 11.05.2020 and is in custody for the last more than 03 years and 11 months. Even the prosecution has not been able to conclude the prosecution evidence so far. Moreover, the material witness i.e Harpreet Kaur has been examined as PW-1 and she did not identify the petitioner before the trial Court. No doubt, the allegations levelled by the complainant in the present FIR indicate the seriousness of the offence

and specific allegations have been levelled against the present petitioner, however, the petitioner cannot be detained in custody as an under-trial prisoner for an indefinite period. In fact, any detention for a longer period, without completion of trial by the trial Court, is violative of Article 21 of the Constitution of India.

6. Thus, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned, subject to the following conditions:-

- (i) 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 to disclose such facts to the Court or to any other authority.
- (ii) The petitioner shall remain present before the Court on the dates fixed for hearing of the case.
- (iii) The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.
- (iv) The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.
- (v) The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.
- (vi) In case, the petitioner involves in any other criminal activity, during the pendency of the trial, it shall be viewed seriously.

- (vii) The concerned Court may insist on two heavy local sureties and may also impose any other condition, in accordance with law, while accepting the bails bonds and surety bonds of the petitioner.
- (viii) The petitioner shall report every 1st and 3rd Monday in English calander month to the concerned SHO till the conclusion of the trial and SHO shall mark his presence by making an entry in the rojnamcha. In case, he does not report on every 1st and 3rd Monday to the concerned SHO, it shall be viewed seriously and the concession granted to him shall be liable to be cancelled and the State of Punjab shall be at liberty to move an appropriate application in this regard.

29.04.2024.
hemlata

(N.S.SHEKHAWAT)
JUDGE

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