



CRM-M-43750-2024

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-43750-2024

Date of decision: 2nd December, 2024

Gurdev Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Vikas Gupta, Advocate for the petitioner.

Mr. A.S. Samra, AAG, Punjab.

MANISHA BATRA, J (ORAL):-

The instant one is the fourth petition as filed by the petitioner seeking grant of regular bail in case bearing FIR No. 158 dated 20.09.2010 registered under Sections 364/34 and 302/201 of IPC, 1860 at Police Station Patti, District Tarn Taran. The first and third petition as filed by the petitioner had been dismissed vide orders dated 25.03.2022 and 06.10.2023 respectively, whereas, the second petition was dismissed as withdrawn vide order dated 17.11.2022.

2. The petitioner is facing trial for commission of offences of abduction and murder of the Pargat Singh, husband of the complainant-Dalbir Kaur. As per the allegations, he had eliminated the victim in conspiracy with the co-accused Lakhwinder Kaur (who has already been convicted in this case) and Joga Singh (who has died during the trial).



3. The present petition has been filed by the petitioner on the grounds and it is argued by learned counsel for the petitioner that after dismissal of the third petition for grant of bail on 06.10.2023, a period of more than one year and one month has passed. He has been in custody for a period of more than 4½ years. Trial is likely to take time as not even a single witness of the prosecution has been examined so far. He was not named in the FIR and has been nominated as an accused on the basis of disclosure statement of the co-accused. His further detention would not serve any useful purpose. He is entitled to be released on bail in view of the period of his incarceration. Therefore, it is urged that the petition deserves to be allowed.

4. Status report has been filed by respondent-State. Learned State counsel has argued that the previous two petitions for grant of regular bail as filed by the petitioner, had been dismissed on merits. There are specific and serious allegations against him. There are chances of petitioner's absconding again. Even in the past, he had been declared proclaimed person and was apprehended after nine years. There is no substantive and specious change in the circumstances from the date of dismissal of the previous petition. Mere extended period of incarceration is not sufficient to extend benefit of bail to him. Therefore, it is argued that the petition does not deserve to be allowed.

5. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

6. The petitioner in connivance with the co-accused alleged to



have murdered the husband of the complainant. He was declared a proclaimed offender and remained as such for nine years. He was arrested on 07.04.2020. Trial has commenced. It is well settled proposition of law that when successive bail applications come before the Court, the Court should be very cautious while considering the same. Successive bail applications can be entertained by the Court when some substantial change is established by the accused thereby making him entitled for grant of bail. Reference in this regard can be made to *State of Maharashtra Vs. Captain Buddhikota Subha Rao, AIR 1989 Supreme Court, 2292*, wherein it was observed so and it was further held that the Court should not pass an order of release of an accused on bail in successive bail application merely establishing some cosmetic change between time gap of two applications. There must be some drastic change during the period between two applications. Reference can also be made to *Kalyan Chandra Sarkar Vs. Rajesh Ranjan @ Pappu Yadav and another (2004) 7 SCC 528*, wherein it was observed by Hon'ble Supreme Court that where the offence alleged against an accused is grave, bail cannot be granted only on the ground of long incarceration.

7. After hearing the contentions as raised by learned counsel for the petitioner, I am of the considered opinion that no substantial or drastic change from the date of dismissal of the previous petition as moved by the petitioner has been pointed out or made out from the pleas taken by the petitioner. Merely the extended/prolonged period of incarceration or examination of some material witnesses is not a ground to extend any such benefit. The petitioner has absconded previously and the apprehension that



he may abscond again cannot be held to be unfounded. Keeping in view the aforesaid facts and circumstances, in my considered opinion, it is not a fit case to enlarge the petitioner on bail, especially in view of the fact that no drastic or material change in the circumstances has been made out. In view of the discussion as made above, but without meaning to make any comment on the merits of the case, I am of the considered opinion that the petition does not deserve to be allowed. Hence, the same is dismissed.

8. Since the main petition has been dismissed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

2nd December, 2024
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |