



CRM-M-46932-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-46932-2024
Date of Decision: 25.11.2024

Sohan Singh @ Soni

n...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present:-. Mr. Shrey Goel, Advocate
for the petitioner

Mr. R.S. Thind, DAG Punjab

KIRTI SINGH, J.(Oral)

The jurisdiction of this Court under Section 439 Cr.P.C. has been invoked for grant of regular bail to the petitioner in case FIR No.251 dated 08.08.2019 registered under Section 379-B IPC (Section 411 IPC added later on) at Police Station Division No. 5, Ludhiana.

2. The contents of the above-mentioned FIR are reproduced herein below:-

"Statement of Pawanjot Kaur D/o Gurlal Singh R/o Village Jhorda, District Ludhiana currently residing at PG 65 Green Field Ludhiana, Mob.81968-18490. Stated that I am a resident above said address and I am a student. On 07.08.2019 at around 9.30 AM I was going towards Punjab Kesari Office from my PG on foot. I was talking on mobile. Then two persons came from behind on a motorcycle and they put me under fear and snatched my mobile vivoY81 which had numbers 9781852770, 9855756002 having IMEI Number



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868558046929277 and 868558046929269 and ran away on the motorcycle the noted that the motorcycle was mark splendour bearing No.PB10FU9258. I was coming to give you information. You met me on the way. I have got my statement recorded and the same is correct. Signed Pawanjot.”

3. Learned counsels for the petitioner *inter alia* submits that the petitioner has been falsely implicated in the present case. He further submits that earlier the petitioner was granted regular bail by the learned trial Court on 01.10.2019, however, he was unaware about the fact that he had get his presence marked. Resultantly, the petitioner was declared as a proclaimed offender and was taken into custody. The petitioner thereafter filed an application for grant of regular bail, which was dismissed vide order dated 18.01.2024. Learned counsel for the petitioner submits that the petitioner has undergone actual custody of 01 year, 06 months and 06 days and there is no other case pending against him.

4. Per contra, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. As per the custody certificate, the petitioner has undergone actual custody of 01 year, 06 months and 06 days and there is no other case pending against him. He further on instructions submits that the challan was presented on 04.11.2019 and charges were framed on 13.05.2021 and out of 09 prosecution witnesses, 02 prosecution witnesses have been examined. However, in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail.

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

6. Admittedly, the petitioner has undergone actual custody of 01 year, 06 months and 06 days and there is no other case pending against him. Out of



and the conclusion of trial will take a considerable period and 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.

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

8. The veracity of the allegations leveled against the petitioner shall be established during the course of the trial. Admittedly, the charges have been framed and only two prosecution witness have been examined till date, 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 may prejudice the trial, the present petition is allowed and the petitioner is ordered to be released on regular bail on his 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:-

- (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 they are accused of, or for commission of which he 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.

25.11.2024
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(KIRTI SINGH)
JUDGE

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