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215 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-48646-2023 (O&M)

Date of Decision: 01.02.2024

KULDEEP @ KALLU

...Petitioner

V/S

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Poonam Rani, Advocate for
Mr. Siddarth, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG Haryana.

HARPREET SINGH BRAR J. (Oral)

1. This is the first petition filed under Section 439 of Cr.P.C. seeking grant of regular bail to the petitioner in the case bearing FIR No. 153 dated 02.04.2019 registered under Sections 392, 397, 342, 452, 473 of Indian Penal Code and Sections 25-54-59 of Arms Act at Police Station City Yamunanagar.

2. Present FIR was lodged on the allegations that on 02.04.2019 SI Amrik Singh received an information regarding a robbery committed in Patel Nagar and the present FIR was lodged on the statement of Manju Yadav to the effect that her husband had gone to Faridabad and at about 8.00 PM, when she and her children were present at home and her servant Vinay Kumar was talking to her, in the meantime, three boys armed with pistol, entered her house forcibly and out of them one boy gave 'butt' blow on her head. They locked her children in a room. The assailants broke the locks of iron and wooden almirah lying in other rooms and her servant Vinay Kumar stood as the guard. The

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assailants committed robbery and taken away jewellery, cash, Apple mobile phone. While leaving the spot, they intimidated the complainant as well.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner is not named in the FIR and he has been nominated as accused on the basis of disclosure statement, admitting his involvement in the present FIR, while he was in custody in some other case. The earnings and one country made pistol was recovered from the possession of co-accused Ravi and another country made pistol and Rs. 50,000/- were recovered from other co-accused Rohit and the petitioner is behind the bars since 10.04.2019. The prosecution has not been able to produce its witnesses and the delay in concluding the trial violates the fundamental rights of the petitioner enshrined under Article 21 of Constitution of India, which ensures right to speedy trial.

4. Per contra, learned State counsel on instructions from SI Lakhbir Singh, opposes the prayer of grant of regular bail to the petitioner on the ground that petitioner is a habitual offender and he is involved in 08 more cases. However, learned State counsel could not controvert the fact that out of 25 prosecution witnesses, only 9 have been examined so far.

5. Having heard the learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 19.04.2019. The trial of the case is progressing at snail's pace as out of 25 prosecution witnesses, only 9 have been examined so far. So further incarceration of the petitioner without there being the prospect of the conclusion of the trial in the near future, would be

violative of Article 21 of the Constitution of India. Culpability, if any, would be determined at the time of the trial.

6. The foundational concept of the criminal jurisprudence is to ensure speedy trial. The Hon'ble Supreme Court has repeatedly reiterated that right to speedy trial is enshrined in Article 21 of the Constitution of India. Speedy trial would cover investigation, enquiry, trial, appeal, revision and retrial etc. i.e. everything starting with the accusation against the accused and expiring with the final verdict of the last court.

7. It has further been held in law that if a person is deprived of his liberty under a procedure which is not reasonable, fair, or just, such deprivation would be violative of his fundamental right under Article 21 of the Constitution of India. The procedure so prescribed must ensure speedy trial for determination of the guilt of such person. Some amount of denial of personal liberty cannot be avoided, but if the period of deprivation pending trial becomes excessively long, the fairness guaranteed by Article 21 of the Constitution of India would come into play.

8. In this regard, reference is being made to the law laid down by the Hon'ble Supreme Court in the context of right to speedy trial under Article 21 of the Constitution of India on the following decision:-
Akhtari Bi Vs. State of M.P., (2001) 4 SCC 355, Surinder Singh Alias Shingara Singh vs. State of Punjab, (2005) SCC (CrI) 1674, P. Ramachandra Rao vs. State of Karnataka, (2202) 4 SCC 578, Babu Singh and others vs. State of U.P., (1978) 1 SCC 579, Takht Singh and others vs. State of M.P., (2001) 10 SCC 463; Special Leave to

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Appeal (Crl) No.2356 of 2010, Kushal Singh vs. State of U.P. (2JJ.)
and Fazal vs. State of Uttar Pradesh, (2012) 5 SCC 752.

9. In view of the ratio of law laid down by Hon’ble Supreme Court in *Prabhakar Tiwari Vs. State of UP and Anr.* 2020(1) RCR (Criminal) 831 and *Maulana Mohd. Amir Rashadi Vs. State of U.P. and Others* 2012(2) SCC 382, the involvement of accused in other criminal cases cannot be the sole ground to deny him the concession of bail.

10. The present petition seeking regular bail to the petitioner is allowed solely on the ground of long custody already undergone by him and without commenting on the merits of the case lest it may prejudice the outcome of the case pending before the trial Court.

11. In view of the above, the present petition is allowed and the petitioner- Kuldeep @ Kallu is ordered to be released on regular bail during trial on her furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

12. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

(HARPREET SINGH BRAR)
JUDGE

01.02.2024
Ajay Goswami

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