

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

\*\*\*\*

226-CRM-M-47151-2024

Date of decision: 25.09.2024

\*\*\*\*

Sajan Kumar

... Petitioner

VS.

State of Punjab

... Respondent

\*\*\*\*

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

\*\*\*\*

Present: Mr. JS Sekhon, Advocate for the petitioner

Mr. JS Rattu, DAG Punjab

\*\*\*\*

**Sandeep Moudgil, J.**

The petitioner has filed the present 2<sup>nd</sup> petition under Section 483 BNSS seeking grant of regular bail in case FIR No.84 dated 23.06.2022 under Sections 379-B/341 IPC (Section 411 IPC added later on), registered at Police Station Nangal, District Rupnagar.

Learned counsel for the petitioner submits that the petitioner was granted regular bail by this Court vide order dated 24.08.2022 in CRM-M-36428-2022 and was since then, he has been appearing before the trial court on each and every date but for his unintentional absence on 10.11.2023 and 24.11.2023 due to miscommunication with his counsel as he noted wrong date of hearing of the case. He submits that the trial court, at the first instance, wrongly issued non-bailable warrants against the petitioner and as such he was arrested on 14.02.2024.

Reliance has been placed on **Gurjant Singh @ Janta vs. State of Punjab (CRM-M-35963-2024)** whereby in similar circumstances, this Court granted regular bail to the accused therein. In the present case, the petitioner has been declared proclaimed offender on 09.02.2024 and since his arrested on

14.02.2024, the complainant has already been examined and has subsequently turned hostile.

Learned State counsel has filed custody certificate dated 25.09.2024 which is taken on record. According to it, the petitioner has undergone 9 months and 12 days of custody, pending trial. He opposed the prayer for grant of regular bail on the ground that the petitioner has a key role to play in the alleged offence and as such, he may intimidate/threaten the witnesses and that apart, there are 6 PWs left to be examined out of total 7 PWs; challan has been presented on 18.08.2022 and charges framed on 05.11.2022 and there is no other case pending against the petitioner.

Heard learned counsel for the parties and gone through the record.

Taking into consideration the totality of the circumstances particularly the fact that ingredients of the offences, as alleged, are not fulfilled coupled with the fact that this was the sole absence on the part of the petitioner and also in view of the fact that it will take certainly long time to conclude the trial, and as such detaining the petitioner behind the bars for an indefinite period would amount to violation of Article 21 of the Constitution of India and is against the principle "Bail is a rule, jail is an exception" as elucidated in the judgement of Apex Court in "***Dataram Singh vs. State of Uttar Pradesh and another, (2018) 3 SCC 22***". Keeping the petitioner inside the jail is clearly violative of speedy trial under Article 21 of the Constitution of India, but the same is likely to take long time being wherein it is at the initial stage after a lapse of considerable time.

Accordingly, the present petition is allowed and the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

25.09.2024  
*V.Vishal*

**(Sandeep Moudgil)**  
**Judge**

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes/No  
Yes/No