



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

347

CRM-M No.47594 of 2024
Date of decision : 16.10.2024

Gobind SinghPetitioner

Versus

State of PunjabRespondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Rishabh Gupta, Advocate, for the petitioner
Mr. Yuvraj Singh Tiwana, AAG Punjab

SUMEET GOEL, J. (ORAL)

1. Present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the petitioner in case FIR No.12 dated 11.3.2022, under Section 304-B of the IPC, registered at Police Station Tibber, District Gurdaspur, Punjab.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

'Statement of Harjit Singh son of Darbara Singh resident of village Mehde police station Bhaini Miya Khan aged about 40 years mobile number 9876072191 has stated that I am resident of the said address and is an agriculturist. I have 2 children, one boy and one elder daughter Narendra Kaur who is around 20 years old, whose marriage was solemnized with Gobind Singh son of Balbir Singh, resident of village Gohat Pokhar on 07-12-2021 according to Sikh rites and ceremonies. At the time of marriage we had given our daughter Narinder Kaur sufficient dowry and gold articles according to our capacity. After marriage my daughter Narinder



Kaur's husband Gobind Singh son of Balbir Singh, mother-in-law Pyar Kaur wife of Balbir Singh and father-in-law Balbir Singh son of Charan Singh resident of Gohat Pokhar started troubling her for getting more dowry and a car and also used to give her beatings and my daughter Narinder Kaur had told us many times about this but we used to make her understand and send back to her in-laws family. My daughter's sister-in-law Sukhwinder Kaur alias Sukhi wue of Sukhjinder Singh resident of Balladwal who was residing at her matrimonial house for past one month, she also used to harass her. On 10.03.2022 at around 3:00pm I received a call from my daughter's mother-in-law Pyar Kaur and she said that your daughter Narinder Kaur is vomiting and me and my wife Paramjit Kaur reached my daughter Narinder Kaur's house in village Gohat Pokhar where my daughter Narinder Kaur was lying inverted on her stomach on the cot whose health was deteriorating and we arranged for a vehicle and took her to Arora Hospital at Gurdaspur for treatment and got her admitted, there the doctor referred her to Amritsar and for treatment we got her admitted to EMC Hospital Amritsar. During treatment my daughter passed away at night and we were coming with the deadbody to Civil Hospital Gurdasour. My daughter had died because of husband Gobind Singh, mother-in-law Pyar Kaur, father-in-law Balbir Singh and Sukhwinder Kaur alias Sukhi for harassing her for dowry and she has died after consuming some poisonous substance. You have met us and have got recorded my statement which is correct. Sd/- Harjit Singh.'

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 21.4.2022. Learned counsel has further submitted that initially charges were framed against the petitioner on 8.8.2022, whereas the same were altered on 21.10.2023. Learned counsel has further submitted that out of total 14 prosecution witnesses, only 3 have been partly examined till date & delay in culmination of the trial cannot be fastened upon the petitioner in any manner whatsoever. Learned counsel for the petitioner has further argued that the offence under Section 304-B of IPC is not made out against the petitioner especially since there was no



previous complaint regarding any dowry harassment etc. having been meted out against the petitioner. Thus, regular bail is prayed for.

4. Learned State counsel has opposed the present petition by arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 11.10.2024 in Court, which is taken on record.

5. I have heard counsel for the parties and have gone through the available records of the case.

6. The petitioner was arrested on 21.4.2022 whereinafter investigation was carried out and challan was presented on 27.7.2022. More than 13 prosecution witnesses have been cited and it is not in dispute that only 3 witnesses have been partly examined till date. It is further not in dispute that charges were framed on 8.8.2022 and were thereafter altered on 21.10.2023. Another application is stated to have been filed under Section 216 of Cr.P.C.

7. At this juncture it would be apposite to refer herein to a judgment passed by the Hon'ble Supreme Court in ***Criminal Appeal No.2787 of 2024*** titled as ***Javed Gulam Nabi Shaikh vs. State of Maharashtra and another***, decided on 03.07.2024; relevant whereof reads as under:-

'19 If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime



committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime.

20. We may hasten to add that the petitioner is still an accused; not a convict. The over-arching postulate of criminal jurisprudence that an accused is presumed to be innocent until proven guilty cannot be brushed aside lightly. howsoever stringent the penal law may be.

21. We are convinced that the manner in which the prosecuting agency as well as the Court have proceeded, the right of the accused to have a speedy trial could be said to have been infringed thereby violating Article 21 of the Constitution.'

8. The rival contention of learned counsel for the parties; as to whether the offence under Section 304-B of IPC is made out against the petitioner or not keeping in view the factum of no complaint allegedly earlier made by the complainant side; shall be gone into during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence. As per custody certificate dated 11.10.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of more than two years and five months & is not shown to be involved in any other case.

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

9. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However,



in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cell-phone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaqa Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.

10. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

11. Ordered accordingly.

12. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

(SUMEET GOEL)
JUDGE

16.10.2024
Ashwani