

2024:PHHC:003592

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

208

CRM-M-51871-2023 (O&M)
Date of Decision : January 11, 2024

JASVIR SINGH @ JASVEER SINGH

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Vijay Kumar, Advocate,
for the petitioner.

Mr. Mohit Chaudhary, AAG, Punjab

KULDEEP TIWARI. J.(Oral)

1. Through the instant petition, the petitioner craves for indulgence of this Court for their being enlarged on regular bail, in case FIR No. 125, dated 26.06.2023, under Sections 384, 420, 379-B and 120-B of the IPC (Annexure P-1), registered at Police Station Lehra, District Sangrur.

ALLEGATIONS AGAINST THE PETITIONER

2. The prosecution agency was set into motion on the complaint, made by one Raghbir Singh, who in his allegations stated that he is a businessman and was familiar with petitioner-Jasmin Begum, as she was in regular contact with the complainant and she used to contact the complainant on Whatsapp call. On one occasion the petitioner (Jasmin Begum) contacted the complainant on Whatsapp call, wherein,

she proposed the complainant that she can provide the complainant a girl aging about 16-17 years, and the girl would come and meet the complainant. Upon which the complainant refused the said proposal and said that he is not interested in such types of practice.

3. The petitioner-Jasmin Begum, again told the complainant that she could provide another lady aging 35 years, and stated that the said lady is also finding someone. Despite refusal, the complainant was taken into confidence by the petitioner-Jasmin Begum, on dated 06.06.2023, the petitioner-Jasmin Begum contacted the complainant on Whatsapp call, and told the complainant that she is sending the said lady to the complainant. Thereupon, one lady, who disclosed her name as Balbir Kaur, was sent to the complainant and the complainant took that lady to a nearby hotel, where they got intimated with each other, and thereafter, the aforesaid lady-Balbir Kaur, was dropped at the bus stand, by the complainant, on a request made by the lady-Balbir Kaur. After some time, the petitioner-Jasmin Begum, told the complainant that the aforesaid Balbir Kaur, has made a video of the complainant, while being intimated with the lady-Balbir Kaur, and demanded money.

4. The complainant, in pursuance to save his honour and reputation, parted with Rs.3.00 lakh, which was handed over to the petitioner-Jasmin Begum. Thereafter, the petitioner-Jasmin Begum again and again insisted the complainant to hand over the remaining balance amount. The balance amount was also paid by the complainant, and while making payment of that balance amount, the photographs were clicked by

a friend of the complainant.

5. It is further alleged by the complainant that mobile phone through which the photographs were clicked, was also snatched by the petitioner-Jasmin Begum.

6. On the basis of the above complaint, the instant FIR was registered.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PETITIONER

7. Learned counsel for the petitioner submit that the instant story of the prosecution is based upon concoctions, after due deliberation, as there is a long delay in the registration of the FIR (*supra*)

8. It is further submitted that there is no legal evidence on record to substantiate the allegations levelled against the petitioner.

9. The next submission as made by learned counsel for petitioner is that the petitioner never blackmailed the complainant.

10. He further submits that all the petitioner has suffered sufficient incarceration as he is behind the bars for the last more than six months.

11. Learned counsel petitioner submits that the present petitioner is in parity with the other co-accused who have been extended the benefit of regular bail by this Court on 10.01.2024 in CRM-M-38786-2023 and other connected petitions.

SUBMISSIONS OF THE LEARNED STATE COUNSEL

12. On the other hand, learned State counsel has placed on record a status report dated 08.01.2024, by way of affidavit of Mr. Deepak

Rai, DSP, Sub Division, Lehra, District Sangrur, and also the custody certificate, which are taken on record and informs this Court that the investigation has already been completed in the instant matter, and the final report has been filed way back on dated 01.09.2023, and thereupon, the charges were framed on dated 21.11.2023, and out of total 22 prosecution witnesses cited by the prosecution in the final report, none has been examined by the learned trial Court concerned so far.

ANALYSIS

13. *“Bail is the Rule and Jail is an Exception”*. This basic principle of criminal jurisprudence was laid down by the Hon’ble Supreme Court, way back in 1978, in its landmark judgment titled ***“State of Rajasthan V. Balchand alias Baliay”, 1977 AIR 2447, 1978 SCR (1) 535***. This principle finds its roots in one of the most distinguished fundamental rights, as enshrined in Article 21 of the Constitution of India. Though the underlying objective behind detention of a person is to ensure easy availability of an accused for trial, without any inconvenience, however, in case the presence of an accused can be secured otherwise, then detention is not compulsory.

14. The right to a speedy trial is one of the rights of a detained person. However, while deciding application for regular bail, the Courts shall also take into consideration the fundamental precept of criminal jurisprudence, which is “the presumption of innocence”, besides the gravity of offence(s) involved.

15. In ***“Nikesh Tarachand Shah V. Union of India”, (2018) 11***

SCC 1, the Hon'ble Supreme Court has recorded the following:-

“14. In Gurbaksh Singh Sibbia v. State of Punjab, (1980) 2 SCC 565 at 586-588, the purpose of granting bail is set out with great felicity as follows:-

“27. It is not necessary to refer to decisions which deal with the right to ordinary bail because that right does not furnish an exact parallel to the right to anticipatory bail. It is, however, interesting that as long back as in 1924 it was held by the High Court of Calcutta in Nagendra v. King-Emperor the object of bail is to secure the attendance of the accused at the trial, that the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial and that it is indisputable that bail is not to be withheld as a punishment. In two other cases which,significantly, are the ‘Meerut Conspiracy cases’ observations are to be found regarding the right to bail which deserve a special mention. In K.N. Joglekar v. Emperor [AIR 1931 All 504 : 33 Cri LJ 94] it was observed, while dealing with Section 498 which corresponds to the present Section 439 of the Code, that it conferred upon the Sessions Judge or the High Court wide powers to grant bail which were not handicapped by the restrictions in the preceding Section 497 which corresponds to the present Section 437. It was observed by the court that there was no hard and fast rule and no inflexible principle governing the exercise of the discretion conferred by Section 498 and that the only principle which was established was that the discretion should be exercised judiciously. In Emperor

v. Hutchinson [AIR 1931 All 356, 358 : 32 Cri LJ 1271] it was said that it was very unwise to make an attempt to lay down any particular rules which will bind the High Court, having regard to the fact that the legislature itself left the discretion of the court unfettered. According to the High Court, the variety of cases that may arise from time to time cannot be safely classified and it is dangerous to make an attempt to classify the cases and to say that in particular classes a bail may be granted but not in other classes. It was observed that the principle to be deduced from the various sections in the Criminal Procedure Code was that grant of bail is the rule and refusal is the exception. An accused person who enjoys freedom is in a much better position to look after his case and to properly defend himself than if he were in custody. As a presumably innocent person he is therefore entitled to freedom and every opportunity to look after his own case. A presumably innocent person must have his freedom to enable him to establish his innocence.

28. *Coming nearer home, it was observed by Krishna Iyer, J., in Gudikanti Narasimhulu v. Public Prosecutor [(1978) 1 SCC 240 : 1978 SCC (Cri) 115] that: (SCC p. 242, para 1)*

“... the issue of bail is one of liberty, justice, public safety and burden of the public treasury, all of which insist that a developed jurisprudence of bail is integral to a socially sensitized judicial process. . . . After all, personal liberty of an accused or convict is fundamental, suffering lawful eclipse only in terms of procedure established by law. The last four words of Article 21 are the life of that human right.”

29. *In Gurcharan Singh v. State (Delhi Administration) [(1978) 1 SCC 118 : 1978 SCC (Cri) 41]* it was observed by Goswami, J., who spoke for the court, that: (SCC p. 129, para 29)

“There cannot be an inexorable formula in the matter of granting bail. The facts and circumstances of each case will govern the exercise of judicial discretion in granting or cancelling bail.”

30. *In AMERICAN JURISPRUDENCE (2d, Volume 8, p. 806, para 39)*, it is stated:

“Where the granting of bail lies within the discretion of the court, the granting or denial is regulated, to a large extent, by the facts and circumstances of each particular case. Since the object of the detention or imprisonment of the accused is to secure his appearance and submission to the jurisdiction and the judgment of the court, the primary inquiry is whether a recognizance or bond would effect that end.”

It is thus clear that the question whether to grant bail or not depends for its answer upon a variety of circumstances, the cumulative effect of which must enter into the judicial verdict. Any one single circumstance cannot be treated as of universal validity or as necessarily justifying the grant or refusal of bail.”

16. Also, in ***Siddharam Satlingappa Mhetre v. State of Maharashtra, Criminal Appeal No.2271 of 2010***, the Hon’ble Supreme Court has insisted upon striking a perfect balance of sanctity of an individual’s liberty as well as the interest of the society, in grant or refusing bail. The relevant extract of the judgment (supra) is reproduced hereinafter:-

3. The society has a vital interest in grant or refusal of bail because every criminal offence is the offence against the State. The order granting or refusing bail must reflect perfect balance between the conflicting interests, namely, sanctity of individual liberty and the interest of the society. The law of bails dovetails two conflicting interests namely, on the one hand, the requirements of shielding the society from the hazards of those committing crimes and potentiality of repeating the same crime while on bail and on the other hand absolute adherence of the fundamental principle of criminal jurisprudence regarding presumption of innocence of an accused until he is found guilty and the sanctity of individual liberty.

17. This Court has examined the instant petition on the touchstone of the hereinabove extracted settled and legal principle(s) of law and is of the considered opinion that the instant petition is amenable for being allowed.

18. A perusal of the custody certificate reveals that the petitioner has faced incarceration of more than 6 months, in the present FIR. It further reveals that the petitioner is not involved in any other criminal case.

FINAL ORDER

19. Considering the fact that the petitioner is on parity with other co-accused who have been granted regular bail by this Court on 10.01.2024 in CRM-M-38786-2023 (and connected petitions) and has suffered incarceration of more than 6 months, and he is not found to be

involved in any other criminal case, and out of total 22 prosecution witnesses, none has been examined so far, and the conclusion of trial would take a long time, this Court deems it appropriate to grant the concession of regular bail to the petitioner. Therefore, without commenting upon the merits and circumstances of the present case, the present petitions are **allowed**. The petitioner is ordered to be released on bail, on furnishing of bail bond and surety bond to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate concerned.

20. However, it is clarified that if in future, the petitioner is found indulging in commission of similar offences, as are involved herein, the respondent-State shall be at liberty to make an appropriate application seeking cancellation of regular bail, as granted by this Court. Moreover, anything observed here-in-above shall have no effect on the merits of the trial and is meant for deciding the present petition only.

All pending application(s), if any, also stand disposed of.

January 11, 2024
dharamvir

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No