

210

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-50500-2024 (O&M)
Date of decision: 04.12.2024

Madan Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Jasdev Singh Brar, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

Mr. Ranjeet K. Jaswal, Advocate
for the complainant.

HARPREET SINGH BRAR, J. (ORAL)

1. Present petition has been filed under Section 483 of Bharatiya
Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking regular bail in
case bearing FIR No.99 dated 15.07.2024 under Sections 108 & 3(5) of the
Bharatiya Nyaya Sanhita, 2023 (for short 'BNS'), registered at Police Station
Sadar Samana, District Patiala.
2. Mr. Jasdev Singh Brar, Advocate files his *Vakalatnama* on behalf



of the petitioner with no objection from the counsel, who was earlier representing the petitioner, in the Court today, which is taken on record. Registry is directed to tag the same at the appropriate place of the case file.

3. The present FIR was registered on the basis of statement of the complainant, namely Lakhwinder Singh, on the allegations that he was running a restaurant in the name of PB-11 Family Restaurant on contract in Village Chaunth and his mother Angrej Kaur is owner of 06 kanals 11 marlas of land situated in Village Tarkhanmajra and due to domestic needs, she mortgaged 04 kanals 10 marlas of land to Gurwinder Singh and Madan Singh in lieu of Rs.2,50,000/- and they, instead of executing mortgage deed, got executed a sale deed of 02 kanals 01 marla of land from her and regarding this, a case is pending before the Civil Court. On 14.07.2024, a panchayati compromise was effected between the parties, according to which Gurwinder Singh etc. were to be given 02 kanals 01 marla of land and to carve out a doll in the land, but his mother was not agreed to the said compromise. Due to harassment at the hands of Gurwinder Singh and Madan Singh, at about 05.30 p.m., his mother consumed poisonous pesticide. Thereafter, she was taken to Civil Hospital, Samana, but due to her bad condition, the doctor referred her to Rajindra Hospital, Patiala and due to deteriorating health of his mother, she was further referred to PGIMER, Chandigarh, however, she expired in the Emergency Ward itself.

4. Learned counsel for the petitioner, *inter alia*, contends that



perusal of the record clearly indicates that factual ingredients for abetment as provided under Section 107 of the Indian Penal Code, 1860 (for short 'IPC') (*now Section 45 of BNS*) are not attracted at all and there is nothing on record to suggest that the petitioner has played any active role, which has close proximity with suicide of the deceased. As such, *prima facie*, offence under Section 108 of BNS (*erstwhile Section 306 of IPC*) is not made out. The dispute between the parties is with regard to 04 kanals 10 marlas of land, which was mortgaged with the petitioner and a compromise was effected between the parties with the intervention of the respectables and it has been decided that the deceased will return Rs.2,50,000/- to the petitioner and the mortgage would be cancelled and the land would be restored to the deceased. The petitioner is behind bars since 20.07.2024 and he is not involved in any other case; investigation of the case is complete and final report under Section 173 of the Code of Criminal Procedure, 1973 (*now Section 193 of BNSS*) has already been presented before the concerned jurisdictional Court.

5. *Per contra*, learned State counsel, assisted by learned counsel for the complainant, opposes the prayer for grant of regular bail to the petitioner on the ground that the petitioner has forged signatures of the deceased on the sale deed and thereafter, she was pressurized to effect a compromise and a video was also prepared and she was distressed due to the compromise forced upon her and as such, she committed suicide by consuming poisonous pesticide. Learned State counsel produces the custody certificate of the

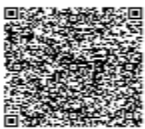


petitioner in the Court today, which is taken on record. However, he could not controvert the fact that the petitioner is not involved in any other case.

6. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the petitioner is behind bars since 20.07.2024 and trial of the case is likely to take long time in its conclusion, as none out of 22 prosecution witnesses ha been examined so far. The culpability, if any, would be determined at the time of trial. Keeping the petitioner in further detention without the prospect of the trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India.

7. A two Judge Bench of the Hon'ble Supreme Court in ***Satender Kumar Antil Vs. CBI, (2022) 10 SCC 51***, with respect to prevailing conditions of undertrial prisoner in India has observed as under: -

“6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure



*resulting in curtailment of liberty, and thus to be used sparingly.
In a democracy, there can never be an impression that it is a
police State as both are conceptually opposite to each other.”*

8. In view of the above, present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, petitioner Madan Singh is ordered to be released on regular bail during trial on his furnishing bail/surety bonds to the satisfaction of learned Illaqa Magistrate/trial Court concerned.

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

04.12.2024
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[HARPREET SINGH BRAR]
JUDGE

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