



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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CRM-M-51373-2024 (O&M)
Date of decision: 05.11.2024

MOHAN SINGH

....PETITIONER

V/S

STATE OF HARYANA

....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Naresh Kumar, Advocate and
Mr. Ram Bhati, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

Mr. Ajay Chauhan, Advocate and
Mr. Diwan S. Adlakha, Advocate for the complainant.

SUMEET GOEL, J. (ORAL)

1. Present petition has been filed under Section 483 of BNSS, 2023 for grant of regular bail to the petitioner in case bearing FIR No.85 dated 05.03.2022 registered for the offences punishable under Sections 302, 34/114 of IPC and Section 25 of Arms Act (Section 354 of IPC added later on) at Police Station Chandhut, District Palwal, Haryana.

2. The case set up in the FIR in question is as follows:-

“To SHO, P.S. Chandhut, District Palwal. Sir, Dungar Singh S/o Nahar Singh, I am resident of Village Chowkda, P.S. Maat, District Mathura. I have two children. My daughter Rajni is aged about 19 years and married on 07.02.2022 with Greeting Nohwar S/o Mohan Singh, R/o Village Singhoni, P.S. Naujheel, District Mathura, right now residing in the colony in front of Jeevan Jyoti Global School, District Palwal, near Kithwari and her marriage was solemnized according to Hindu rites and ceremonies. After 7 days of wedding, we took our daughter for one hour



for meeting and then after a few days when my daughter talked to me on phone, she told me that her father-in-law keeps bad eyes on her and asked her to press his feet and acts dirty and has tried to force her, then I explained to my daughter that she should complaint about it to her husband and her mother-in-law. After that me and my son namely Krishan Kumar came to meet her at her in-laws house, then she asked us to take her parental home. When we asked her father-in-law, mother-in-law and husband to take her, they refused, then we did not insist much because we had to maintain kinship. Then me and my son came back to our home. Thereafter, today we got the information that my daughter Rajni was sought dead. When we came to Civil Hospital and saw that she is sought dead in which my daughter's father-in-law, mother-in-law and husband are involved and therefore, request is made to police station that necessary action be initiated against the accused persons. Thank you. Sd/- Dungar Singh Mob. No.6397129735. Police Proceedings.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 05.03.2022. Learned counsel for the petitioner has further iterated that total 22 prosecution witnesses have been cited, out of which all private prosecution witnesses stand examined. Learned counsel for the petitioner has further referred, in extenso, to zimni orders dated 20.02.2024, 16.04.2024, 21.05.2024, 20.07.2024, 12.08.2024, 07.09.2024 and also 30.09.2024 passed by trial Court to argue that the trial is not proceeding at the desired pace and the non-culmination of the trial cannot be attributed to the petitioner in any manner. To buttress this aspect of his arguments, learned counsel has iterated that even police officials have not been regularly appearing for having their testimonies recorded (as prosecution witnesses) despiteailable/non-ailable warrants having been issued against them. Learned counsel for the petitioner has further



submitted that, assuming arguendo, the allegations levelled in the FIR and the prosecution case be taken as true, the prime allegation against the petitioner is one of abetting the main accused namely Greeting (son of the petitioner) to commit the murder. Learned counsel for the petitioner has further submitted that the petitioner was earlier extended the concession of interim regular bail by this Court vide order dated 16.02.2024 passed in CRM-M-8280-2024 which was never ever misused by the petitioner & he surrendered back in time. Thus, regular bail is prayed for.

4. Learned counsel for the State 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 regular bail. Learned counsel for the complainant has iterated that it is the petitioner (herein) who has abetted the offence by instigating the main accused for committing the murder.

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

6. The petitioner was arrested on 05.03.2022 whereinafter investigation was carried out and challan was presented on 10.05.2022. Total 22 prosecution witnesses have been cited out of which 13 have been examined till date. It is not in dispute that all private prosecution witnesses including the complainant stand examined. The rival contention of learned counsel for the parties; as to whether the petitioner has been falsely implicated into the FIR in question, the exact role of the petitioner in the alleged offence(s) and veracity/sufficiency of prosecution evidence against



him; shall be gone into during the course of the trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice trial.

A perusal of the zimni orders dated 20.02.2024, 16.04.2024, 21.05.2024, 20.07.2024, 12.08.2024, 07.09.2024 as also 30.09.2024 passed by the trial Court shows that the trial is not progressing at the desired pace and it does not appear that the petitioner is responsible in any manner for non-culmination of the trial at an early date. A perusal of these zimni orders passed by the learned trial Court also reflects that the police officials have not repeatedly appeared to have their testimony recorded (as prosecution witnesses) and the trial Court was constrained to issueailable warrants/non-ailable warrants for securing their presence. At this juncture, it would be apposite to refer herein to a judgment passed by the Hon'ble Supreme Court in a case of ***'Javed Gulam Nabi Shaikh Vs. State of Maharashtra and another'*** decided in ***Criminal Appeal No.2787 of 2024 arising out of SLP (Crl) No.3809 of 2024'***, relevant whereof reads as under:

"18. Criminals are not born out but made. The human potential in everyone is good and so, never write off any criminal as beyond redemption. This humanist fundamental is often missed when dealing with delinquents. juvenile and adult. Indeed, every saint has a past and every sinner a future. When a crime is committed, a variety of factors is responsible for making the offender commit the crime. Those factors may be social and economic, may be, the result of value erosion or parental neglect, may be, because of the stress of circumstances or the manifestation of temptations in a milieu of affluence contrasted with indigence or other privations.



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.”

The petition in hand is, indubitable, the fourth regular bail petition. The earlier bail applications preferred by the petitioner were dismissed as withdrawn on 11.04.2023, 16.11.2023 and 12.02.2024. All private prosecution witnesses stand examined after the last bail petition was dismissed as withdrawn on 12.02.2024. In the considered opinion of this Court; the factum of all the private prosecution witnesses having been examined, the police officials not repeatedly appearing before the trial Court for having testimonies recorded as prosecution witnesses and the further period of incarceration undergone by the petitioner is sufficient ground for favourable consideration of the instant bail petition.

Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the remaining prosecution evidence. It is also not in dispute that the petitioner was earlier extended the concession of interim regular



bail for a period of 10 days vide order dated 16.02.2024 passed by this Court in CRM-M-8280-2024 but the petitioner has neither misused the same by extending any kind of threat to any witnesses/complainant & has also surrendered back in time. As per the custody certificate dated 04.11.2024 filed by the learned State counsel, the petitioner has suffered incarceration for about 02 years 07 months and 20 days & 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 present case.

7. In view of totality of factual matrix of the present case, the instant petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the learned 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 cellphone 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/Illaq Magistrate.

(vii) The petitioner shall not in any manner try to delay the trial.

8. 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.

9. Ordered accordingly.

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

11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

November 05, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No