



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

256

CRM-M-61508-2024(O&M)
Decided on: 17.12.2024

HARDEEP SINGH @ PRINCE

... Petitioner(s)

Versus

STATE OF PUNJAB

... Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Vishal Thakur, Advocate and
Ms. Shamli, Advocate
for the petitioner(s).

Mr. Randhir Singh Thind, DAG, Punjab.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 483 of Bharatiya
Nagarik Suraksha Sanhita, 2023 has been invoked for grant of regular bail to
the petitioner in case FIR No.0038 dated 03.03.2024, under Sections
379-B(2) and 34 of Indian Penal Code, 1860 (Section 411 of IPC added later
on), registered at Police Station Tibba, District Ludhiana.

2. The translated version of the FIR is reproduced below:-

*“Statement of Arun Kumar, son of Shri Radheshyam, resident of
house number 243, Street number 05, Mohalla, Prem Vihar, Guru
Nanak estate, Police Station, Tibba, Ludhiana. Aged about 33 years.
Mobile number 9888877759. Stated that I am permanent resident of
above address. I am married. I am running a jewellery shop at my
house. I was
going to Goa with my family for vacations. Yesterday that is
26.2.2024. I was coming from Delhi to my house at Ludhiana along
with my family. On 27. Two. 2024 when I reached at Samrala
Chowk, I hired an auto, which was being driven by Sikh gentleman.
At about 4:40 PM when, I reached near the street of my house along
with my family members, in the meanwhile three young boys came
on a motorcycle, mark hero color black, and they asked to stop the
auto by saying that we have to drop a passenger in the auto.
Thereafter, they stopped the auto and remove the key. The unknown
persons who came on a motorcycle told us to handover the things*



whatever we have, in the meanwhile the pillion riders put "Datter" From their dub. Due to the fear, the driver of the auto gave Rs. 4000/- to them and I started scuffling with them instead of handing over my mobile phone and money to them. Out of them, one unknown person started giving injuries to me with the "Datter", when I put my left arm in order to save myself as such the "Datter" hit on my left hand. The abovesaid person gave blows of the "Datter" to me, as such I have received 3/4 injuries on my head. One blow the "Datter" hit on my right eye and blood started oozing. After giving injuries to me, the above said persons snatched away the bag from my wife. I and my family members raised the alarm and after hearing the noise, my father came at spot to save me. When my father tried to save me the above said persons also gave beatings to my father. After seeing the gathering of the people at the spot, the abovesaid persons fled away from the spot on their motor cycle along with their respective weapons. The number of the motorcycle was read as 1499. The legal action be taken against the unknown persons. Today, I have get recorded my statement before you in the presence of my younger brother Akshay. I have heard, which is true and correct. SD/- Arun Kumar attested SD/- Kulwinder Singh, ASI, Police Station Tibba, Ludhiana dated 03.03.2024."

2. Learned counsel for the petitioner submits that it is alleged that petitioner along with two co-accused had snatched Rs.4000/- from the auto driver as well as from the passenger. He further submits that petitioner has been falsely implicated in this case and the FIR in question has been registered after a delay of 5 days. The petitioner has undergone an actual custody of 09 months and 09 days and he is a man of clean antecedents. He also submits that similarly situated co-accused has been granted the concession of regular bail by this Court vide order dated 19.09.2024 passed in CRM-M-43717-2024.

3. *Per contra* learned State counsel submits that the petitioner was actively involved in the commission of the offence. He has filed custody certificate in Court today and the same is taken on record. As per custody certificate, the petitioner has undergone actual custody of 09 months and 09



days and is not involved in any other case. He on instructions from investigating officer submits that challan was presented on 30.04.2024 but the charges are yet to be framed. Out of total of 10 prosecution witnesses, none have been examined. He, however, submits that in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail.

4. Heard the rival submissions made by learned counsel for the parties.

5. The veracity of the allegations leveled against the petitioner shall be established during the course of the trial. The challan was presented on 30.04.2024 and charges are yet to be framed. Out of total of 10 prosecution witnesses, none have been examined till date. The petitioner has undergone actual custody of 09 months and 09 days and he is a man of clean antecedents. Similarly situated co-accused has been granted the concession of regular bail by this Court vide order dated 19.09.2024 passed in CRM-M-43717-2024. Further detention of the petitioner will not serve any useful purpose and will be violation of Article 21 of the Constitution of India including the right to speedy trial, and is against the principle “Bail is a rule, jail is an exception” as elucidated in the judgment of Apex Court in **“Dataram Singh vs. State of Uttar Pradesh and another”, (2018) 3 SCC 22.**

6. Deprivation of personal liberty without ensuring speedy trial is not consistent with Article 21. While deprivation of personal liberty for some period may not be avoidable, period of deprivation pending trial/appeal cannot be unduly long. The Apex Court in **“Abdul Rehman Antulay and others v. R.S. Nayak and another”, 1992(2) RCR (Criminal) 634** observed that Right to Speedy Trial flowing from Article 21 encompasses all the stages, namely the stage of investigation, inquiry, trial, appeal, revision and retrial.



may prejudice the trial, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing adequate bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate. The petitioner shall also abide by the following conditions:-

- (I) The petitioner will not tamper with the evidence during the trial.
- (II) The petitioner will not pressurize/intimidate the prosecution witness(s).
- (III) The petitioner will appear before the trial Court on the date fixed, unless personal presence is exempted.
- (IV) The petitioner shall not commit an offence similar to the offence of which he is accused of, or for commission of which she is suspected.
- (V) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

8. In case of breach of any of the above conditions, the prosecution shall be at liberty to move an application for cancellation of bail before this Court.

9. However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

17.12.2024
Kavita

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