



CRM-M-44482-2024

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

CRM-M-44482-2024

Date of Decision: 05.04.2025

Pawan @ Pona

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Dr. Rishi Pal Singh, Advocate, for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

Rajesh Bhardwaj, J. (ORAL)

1. Petitioner has approached this Court by way of present petition praying for granting regular bail in case FIR No.1296 dated 28.12.2017 under Section 392 IPC and Section 25, 54 of Arms Act, but challan was presented under Section 379-B, 392 IPC and Section 25 of Arms Act and charges were framed under Section 395 IPC and Section 25, 27, 54, 59 Arms Act, registered at Police Station Karnal Sadar, District Karnal.

2. Succinctly, facts of the case are that the FIR in the present case has been lodged on the statement of the complainant, namely, Narender Singh son of Ishwar Singh. It was alleged that on 27.12.2017 at about 11:15 p.m., after closing his Cafe restaurant, the complainant was coming in his Skoda car bearing No.HR99-QTP-4076 and when he reached near Pingli Chowk, one black Scorpio came behind and it overtook his car and came in front of his car. 5-6 young boys came out of Scorpio car and one of them threatened him with *desi katta*. They snatched Rs.15,000/- from him and the car was taken away by them and the complainant was made to sit in the car and thereafter, he was thrown out of the car near Jundla. The complainant reached his home on foot. Request was made to take legal action against the



accused. On the registration of the FIR, the investigation commenced. During the investigation, the petitioner who was arrested in another FIR No.412 dated 08.11.2018 confessed about his involvement in the present case, hence, he was arrayed as an accused in this case. He was arrested on 13.03.2019. On the disclosure statement of the petitioner, two more accused were arrayed as accused. The approached the Court of learned Additional Sessions Judge, Karnal praying for grant of regular bail. However, after hearing both the sides, the learned Court finding no merit in the same, dismissed the bail application filed by the petitioner vide order dated 10.04.2024. Hence, the petitioner has approached this Court praying for grant of regular bail by way of filing the present petition.

3. It has been contended by learned counsel for the petitioner that the petitioner has been falsely implicated in the present case. He has submitted that admittedly the petitioner is facing prosecution in multiple cases and it is because of the same, he has been implicated in this case. He submits that neither the petitioner was named in the FIR nor any recovery was effected from him. He has submitted that it is only on the basis of his confessional statement before the Police in other FIR, the petitioner has been made accused in the present case. He has submitted that the petitioner is behind bars since the date of his arrest and thus, has suffered incarceration of more than six years as on date. He submits that the petitioner is undergoing sentence in other cases, hence, his in the present case has been shown to be nil despite the petitioner having suffered incarceration of more than six years. He submits that during this period, prosecution has miserably failed to conclude the trial as till date only 03 witness have been examined by the



prosecution. He submits that speedy trial is the fundamental right of every accused irrespective of the gravity of the offence, he is involved in. He, thus, submits that in the facts and circumstances, the petitioner deserves to be granted bail.

4. Learned State counsel has also opposed the submissions made by counsel for the petitioner. He has submitted that the petitioner is a habitual offender and his complicity was duly established during investigation. He submits that the petitioner is not only facing prosecution in multiple cases, however, he has been convicted in some of the cases. He has submitted that as the petitioner is undergoing the sentence awarded by learned trial Court in FIR No.63 of 2014, hence, his custody in the present case is nil. On instructions from SI Surender, he has submitted that out of total 18 prosecution, 03 witnesses have been examined as on date. He has placed on record the custody certificate of the petitioner.

5. After hearing counsel for the parties and perusing the record, it is apparent that in the present case, the petitioner was arrested on 13.03.2019. His custody certificate would show that his under trial period has shown 06 years 02 months & 01 as per column No.1 thereof and as per column No.11 of the custody certificate, it is shown to be nil after deduction of his under trial period served during the conviction in other cases. It cannot be denied that the petitioner is behind bars since the date of his arrested i.e. 13.03.2019. Admittedly as submitted before this Court only 03 witnesses have been examined out of total 18 prosecution witnesses.

6. As per custody certificate, the petitioner has suffered incarceration of 06 years 02 months 01 day as on 04.04.2025 and as per law



settled, speedy trial to the petitioner despite his involvement in multiple cases cannot be taken away. The trial of the case is likely to take sufficient time. Speedy trial is the right of every accused. The Hon'ble Supreme Court in Ashim @ Asim Kumar Haranath Bhattacharya @ Asim Harinath Bhattacharya @ Aseem Kumar Bhattacharya Vs. National Investigation Agency, 2022(1) SCC 695 has held as under:

“Deprivation of personal liberty without ensuring speedy trial is not consistent with Article 21 of the Constitution of India. While deprivation of personal liberty for some period may not be avoidable, period of deprivation pending trial/appeal cannot be unduly long. At the same time, timely delivery of justice is part of human rights and denial of speedy justice is a threat to public confidence in the administration of justice.”

7. The Hon'ble Supreme Court in a recent decision dated 03.07.2024 in Javed Gulam Nabi Shaikh Vs. State of Maharashtra, Criminal Appeal No. 2787 of 2024, has held that howsoever serious a crime may be, an accused has the right to speedy trial under the Constitution of India.

8. The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. This Court would refrain itself from commenting anything on the merits of the case. The trial of the case will take sufficient long time. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail to the petitioner.

9. Accordingly, the present petition is allowed and the petitioner is

ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

10. It is being clarified that in case the petitioner does not furnish bail/surety bonds within a period of one week from today, his custody will not be counted in the present case after one week.

11. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

	(RAJESH BHARDWAJ)	
	JUDGE	
05.04.2025	Whether Speaking/Reasoned :	Yes/No
sharmila	Whether Reportable :	Yes/No