

High Court of Punjab and Haryana

Bench: Justice Harpreet Singh Brar

Date of Decision: 10.01.2024

CRM-M-53952-2023

Manpreet Kaur

....Petitioner

Versus

State of Punjab

...Respondent

Legislation:

Section 439 Cr.P.C.

Sections 302, 34, 328, 201 of the Indian Penal Code

Article 21 of the Constitution of India

Subject: Regular bail application in a case involving charges under Sections 302/34/328/201 of IPC, where the accused petitioner is alleged to have murdered her husband due to an illicit relationship.

Headnotes:

Regular Bail - Prolonged Custody - Right to Speedy Trial - Circumstantial Evidence - Medical Reports - Fairness in Trial - Article 21 of the Constitution - Petitioner, a mother of a minor child, seeks regular bail in a murder case where she is accused of killing her husband due to an alleged illicit relationship. The prosecution's case relies on circumstantial evidence, with key witnesses not supporting their claims, and medical reports contradicting the prosecution's version. The judgment emphasizes the right to a speedy trial and the importance of ensuring fairness in the ongoing trial. The petitioner is granted regular bail based on the grounds of prolonged custody, without

making any comments on the merits of the case to prevent prejudice to the ongoing trial.

Referred Cases:

- Akhtari Bi Vs. State of M.P., (2001) 4 SCC 355
- Surinder Singh Alias Shingara Singh vs. State of Punjab, (2005) SCC (Crl) 1674
- P. Ramachandra Rao vs. State of Karnataka, (2002) 4 SCC 578
- Babu Singh and others vs. State of U.P., (1978) 1 SCC 579
- Takht Singh and others vs. State of M.P., (2001) 10 SCC 463
- Special Leave to Appeal (Crl) No.2356 of 2010, Kushal Singh vs. State of U.P.
- Fazal vs. State of Uttar Pradesh, (2012) 5 SCC 752

Representing Advocates:

Mr. Yashpal Thakur, Advocate for the petitioner.

Mr. Subhash Godara, Addl.A.G., Punjab, for the respondent.

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No.38 dated 08.04.2021 under Sections 302/34/328/201 of IPC registered at Police Station Amloh, Fatehgarh Sahib (Annexure P-1). The FIR was lodged on the statement made by Gurpiar Singh on the allegations that his cousin brother-Sukhdeep Singh was staying in his neighbourhood, who got married to the present petitioner-Manpreet Kaur in the year 2010 and a male child was born out of the said wedlock. It is further alleged that for the last 5 to 7 months, his cousin and the petitioner have been engaged in mutual fights on daily basis and the complainant had been hearing them quarrelling with each other being their neighbour. In the first week of March, 2021, when the complainant asked his cousin the reason of his fight with his wife, he got emotional and started crying and told him that his brother-in-law's brother-in-law, namely, Rajinder Singh, was having illicit relationship with his wife. His cousin came to know about

their relationship when his wife did not return for 3-4 days after she left for Amritsar and his cousin learnt that the petitioner and Rajinder Singh had stayed together. On 26.03.2021 at around 06:10 A.M., the complainant heard someone crying in his cousin's house. When he went there, he found his cousin brother was lying dead on the bed and the complainant came to know that the present petitioner in connivance with Rajinder Singh has killed his cousin brother on the intervening night of 25th/26th March, 2021 as Rajinder Singh had come to their village on that night. The motive for the murder was the illicit relationship between the petitioner and her paramour-Rajinder Singh.

Learned counsel for the petitioner *inter alia* contends that the petitioner is behind the bars since 08.04.2021 and she is a mother of a minor child and due to her incarceration, the welfare of the minor has severely effected. The case of the prosecution is based upon the circumstantial evidence. The FIR was lodged after a delay of 13 days. The case set up by the prosecution with regard to the illicit relationship between the petitioner and her paramour has been demolished by the material witness, namely, Manjit Singh as PW-5 who has not supported the case of prosecution. Similarly, Kalyan Singh as PW-8 and Sukhwinder Singh as PW-9 have also not supported the case of the prosecution. Moreover, the manner as alleged by the prosecution for killing the deceased, cousin brother of the complainant, by administering sleeping pills has not been supported by medical report. As per FSL report, only ethyl alcohol was found in the body of the deceased and PW-6, Dr. Amandeep Singh has categorically deposed that none of the salts as contained in the sleeping pills has been found in the FSL report.

Per contra, the learned State counsel opposes the grant of regular bail to the petitioner on the ground that apart from the testimonies of PW-5, PW-8 and PW-9, there is sufficient material on record to prove the complicity of the petitioner in the alleged occurrence and the petitioner is an accused of heinous offence of murdering her own husband.

The foundational concept of the criminal jurisprudence is to ensure speedy trial. The Hon'ble Supreme Court has repeatedly reiterated that right to speedy trial is enshrined in Article 21 of the Constitution of India. Speedy trial would cover investigation, enquiry, trial, appeal, revision and retrial etc. i.e. everything starting with the accusation against the accused and expiring with the final verdict of the last Court.

It has further been held in law that if a person is deprived of his liberty under a procedure which is not reasonable, fair, or just, such deprivation would be violative of his fundamental right under Article 21 of the Constitution of India. The procedure so prescribed must ensure speedy trial for determination of the guilt of such person. Some amount of denial of personal liberty cannot be avoided, but if the period of deprivation pending trial becomes excessively long, the fairness guaranteed by Article 21 of the Constitution of India would come into play.

In this regard, reference is being made to the law laid down by the Hon'ble Supreme Court in the context of right to speedy trial under Article 21 of the Constitution of India on the following decisions:- **Akhtari Bi Vs. State of M.P., (2001) 4 SCC 355, Surinder Singh Alias Shingara Singh vs. State of Punjab, (2005) SCC (Cri) 1674, P. Ramachandra Rao vs. State of Karnataka, (2002) 4 SCC 578, Babu Singh and others vs. State of U.P., (1978) 1 SCC 579, Takht Singh and others vs. State of M.P., (2001) 10 SCC**

2024:PHHC:002653

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4463; Special Leave to Appeal (Cri) No.2356 of 2010, Kushal Singh vs. State of U.P. (2JJ.) and Fazal vs. State of Uttar Pradesh, (2012) 5 SCC 752.

Having heard learned counsel for the parties and after perusing the

record of the case with their assistance, it transpires that the petitioner is behind the bars since 08.04.2021 and the trial of the case has not made much progress as only 15 out of 35 prosecution witnesses have been examined so far. As such, the trial of the case has not even reached halfway mark. The culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioner.

Keeping in view the facts and circumstances of the case and the fact that the petitioner is not involved in any other case and the likelihood of trial being prolonged, the present petition is allowed. The petitioner-Manpreet Kaur is ordered to be released on regular bail subject to her furnishing requisite bail bonds/surety bonds to the satisfaction of the concerned trial Trial Court/Chief Judicial Magistrate/Duty Magistrate.

The present petition seeking regular bail to the petitioner is allowed solely on the ground of long custody already undergone by her and without commenting

on the merits of the case lest it may prejudice the outcome of the case pending before the trial Court.

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

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