

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

**CRM-M-10516-2015
Date of decision:11.05.2015**

Lakhwinder Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

1. To be referred to the Reporters or not ?
2. Whether the judgment should be reported in the Digest ?

Present: Mr.A.S.Sekhon, Advocate for the petitioner.

Mr. Daljeet Singh Virk, AAG, Punjab.

RAMESHWAR SINGH MALIK, J. (Oral)

Petitioner seeks bail pending trial in FIR No.220 dated 6.10.2014 registered under Sections 457, 380, 436, 427 and 201 of the Indian Penal Code ('IPC') at Police Station City Kotkapura, District Faridkot.

On the last date of hearing, i.e. 20.4.2015, this Court directed the prosecuting agency to ensure the examination of two witnesses namely Hardev Singh and Paramjit Singh. However, despite the directions having been issued by this Court, these two witnesses could not be examined so far.

Learned counsel for the petitioner submits that the learned trial Court was forced to issue non-bailable warrants to secure the presence of these two witnesses. He concluded by submitting that once the prosecuting agency is failing in its duty to make available the prosecution witnesses before the learned trial Court for their examination, petitioner should not be made to suffer for the fault of prosecuting agency. He prays for allowing the present petition.

On the other hand, learned counsel for the State, on instructions from ASI Balwant Sigh, Police Station City Kotkapura, submits that efforts are being made to ensure the presence of above-said two witnesses. There is no delay on the part of the prosecuting agency. He prays for dismissal of the present petition.

Having heard the learned counsel for the parties at considerable length, after careful perusal of record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that in the given fact situation of the present case, instant petition deserves to be allowed. It is so said, because in spite of the directions having been issued by this Court on the last date of hearing, i.e. 20.4.2015, State has failed to produce both the above-said two witnesses before the learned trial Court. This was the reason, learned trial Court had issued non-bailable warrants to the above-said two witnesses. It prima facie shows that a casual approach is being adopted by the prosecuting agency.

Without commenting any further, lest it should prejudice the rights of either of the parties, present petition stands allowed. Petitioner is directed to be released on bail pending trial on his furnishing adequate bail bonds/surety bonds to the satisfaction of learned trial Court.

Disposed of.

11.05.2015
mks

(RAMESHWAR SINGH MALIK)
JUDGE