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

**CRM-M No.275 of 2015
Date of Decision: 10.04.2015**

BAKSHISH SINGH

.....Petitioner

Vs

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Vipin Mahajan, Advocate
for the petitioner.

Mr. Varun Sharma, A.A.G., Punjab.

1. *Whether Reporters of local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

RAJ MOHAN SINGH, J.(Oral)

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.244 dated 21.10.2010, under Sections 302, 201, 404, 148, 149 IPC, P.S. Civil Lines, Batala, District Gurdaspur, Punjab.

Petitioner has been implicated on the basis of circumstantial evidence i.e. last seen evidence. The complainant stated in the FIR that his brother Ajit Singh Sandhu and Gurnam Singh met him and informed that deceased Guriqbal Singh was seen in the company of the petitioner. Deceased Guriqbal Singh was found sitting as a pillion rider on a motor cycle which was being driven by the petitioner.

Petitioner was arrested on 22.10.2010. In order to know the

reasons for delayed trial, report from the trial Court was sought.

The report reveals the following characteristics:-

“Most respectfully, it is submitted that the Hon'ble Punjab & Haryana High Court, Chandigarh vide its order dated 16.01.2015 passed in CRM-M-275-2015 was directed the trial Court to send a report in regard to proceedings conducted since presentation of challan. The undersigned took over the charge of the Court of 1st Additional Sessions Judge, Gurdaspur on 06.10.2014 and the case was put up before the undersigned for the first time on 16.10.2014. So, in this regard I submit my report as under:-

That trial of this case was started on 17.2.2011 when it was received by entrustment before my learned Predecessor Sh. Tejwinder Singh, the then Additional Sessions Judge Gurdaspur. Charge in this case was framed on 18.08.2011 by my learned Predecessor Smt. Harveen Bhardwaj, the then Additional Sessions Judge, Gurdaspur and this case remained pending for prosecution evidence. On 18.4.2013 this case was put up before my learned Predecessor Sh. R.S. Rai, the then Additional Sessions Judge, Gurdaspur when it was fixed for prosecution evidence along-with arguments on bail application and remained pending for this purpose till 1.10.2013 and on 1.10.2013 accused Bakshish Singh was not produced by the Jail Authorities and accused Bakshish Singh was ordered to be summoned through production warrants for 5.12.2013. On 5.12.2013 the learned Presiding Officer was on leave and the case was adjourned for 24.12.2013 for arguments on bail application. On 24.12.2013 accused Bakshish Singh was produced in custody by the Jail Authorities and the case was adjourned to 16.01.2014 for arguments on bail application and then

for 11.2.2014. On 11.2.2014 accused Bakshish Singh was not produced in custody by the Jail Authorities and he was ordered to be summoned through production warrants for 20.2.2014 along-with arguments on bail application. On 20.2.2014 accused Bakshish Singh was produced in custody by the Jail Authorities and he was again ordered to be produced on 10.03.2014 and PWs were ordered to be summoned for said date. On 10.03.2014 accused Shinderpal Kaur was not present and her presence was exempted as per written request made on her behalf and the PWs were ordered to be summoned for 31.3.2014. On 31.3.2014 no witness was present and PWs were ordered to be summoned for 24.4.2014 and then for 13.5.2014 and then for 22.5.2014 and then for 5.6.2014 and then for 10.7.2014 and then for 31.7.2014 and then for 21.8.2014 and then for 11.9.2014 and then for 25.9.2014 and then for 16.10.2014.

This case was put up before the undersigned for the first time on 16.10.2014. On 16.10.2014 no prosecution witness was present and the case was adjourned to 1.11.2014 for prosecution evidence. On 1.11.2014 accused Bakshish Singh was not produced by the Jail Authorities. He was ordered to be summoned through production warrants for 21.11.2014. On 21.11.2014 accused Bakshish Singh was produced in custody but no witness was present and the case was fixed for 11.12.2014 for prosecution evidence and then 8.1.2015 and then for 29.1.2015 and then for 11.2.2015. On 11.2.2015 PW Balwinder Singh was present and while he was being examined during the process of his examination the blood pressure of the witness shot up extremely due to which he fell in the witness box and with great difficulty, taken to chair in the court and thereafter, the counsel assisting the prosecution

requested that the witness was not in a position to depose and requested for short adjournment. The case is fixed for 27.2.2015 for remaining prosecution evidence and the witness was bound down for 27.2.2015.

Submitted please.”

Perusal of the report and circumstances appeared on record reveal that no prosecution witness has been examined so far despite 4 years 7 months of incarceration of the petitioner.

Learned State counsel on instructions from ASI Santokh Singh, however could not justify the delay and facts mentioned in the report of Additional Sessions Judge, Gurdaspur. He also admitted that there is no antecedent behaviour of any criminal activity on the part of the petitioner.

Looking to the nature of allegations and custody of the petitioner, it would be just and expedient to allow benefit of regular bail to the petitioner at this stage.

Accordingly, without commending upon merits of this case, petitioner is ordered to be released on regular bail, subject to furnishing adequate bail bonds/surety bonds to the satisfaction of trial Court/Duty Magistrate, Gurdaspur.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

April 10, 2015.
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(RAJ MOHAN SINGH)
JUDGE