

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

CRM-M-40470-2015

Date of Decision: December 09, 2015

Dilbagh Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. T. S. Sangha, Senior Advocate, with
Mr. Narinder Singh, Advocate,
for the petitioner.

Mr. K. S. Pannu, DAG, Punjab.

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- 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?***

NARESH KUMAR SANGHI, J.(Oral)

Prayer in this petition filed under Section 439, Cr.P.C.,
is for grant of bail to the petitioner, Dilbagh Singh, who has been
booked for having committed the offences punishable under

Sections 148, 302 and 307 read with Section 149, IPC, and Section 25 of Arms Act, 1959, in a case arising out of FIR No. 43, dated 09.06.2006, registered at Police Station, Khem Karan, District Tarn Taran.

Learned senior counsel representing the petitioner submits that after registration of FIR on 09.06.2006, the petitioner was arrested in the month of June, 2006. Since the investigating agency could not complete the investigation within 90 days after arrest of the petitioner, therefore, by virtue of Section 167(2), Cr.P.C., the petitioner was granted statutory bail, vide order, dated 22.09.2006.

After completion of the trial, the learned trial Court held the petitioner and his co-accused guilty for the various offences and the petitioner was awarded imprisonment for life. The petitioner and his co-accused (convicts) filed two different appeals before this Court which were heard by a Division Bench of this Court and the judgment of conviction and order of sentence were set aside, vide order, dated 20.05.2015, and the matter was remitted to the learned trial Court for proceeding afresh from the stage of Section 313, Cr.P.C. At the time of

passing such order, the co-convicts of the petitioner were on bail and, as such, Hon'ble Division Bench directed that they (co-convicts/accused) would remain on bail, while the direction was issued to the learned trial Court to consider the bail of the petitioner on its own merits. The petitioner moved an application for bail before learned trial Court, which has now been dismissed without assigning good reasons, vide order, dated 10.11.2015. The learned senior counsel further contends that since the petitioner was released while granting statutory bail under Section 167(2), Cr.P.C., therefore, as on date the same position exists and, as such, he is entitled to bail without taking into consideration the role assigned to him. He further submits that after grant of statutory bail on 22.09.2006, the petitioner remained on bail upto 29.02.2012, the day on which he was held guilty for various offences and awarded the sentences, by the learned trial Court, but he did not misuse the concession of bail for six years and, as such, in future it is unlikely that he will misuse the concession of bail, if granted by this Court.

Learned counsel for the State has not controverted the factual aspects raised by learned counsel for the petitioner, but he has referred to the observations of Hon'ble Division Bench of

this Court, while accepting the appeal and remitting the matter to the learned trial Court with the direction that the bail of the petitioner would be decided by the learned trial Court on its own merits. He further contends that the learned trial Court has accorded sound reasons while dismissing the bail petition of the petitioner and, as such, there is no scope for grant of bail to the petitioner by this Court.

I have heard learned counsel for the parties and with their able assistance have gone through the material available on record.

Since learned counsel for the State has very fairly conceded that after the arrest of the petitioner in the month of June, 2006, the investigating agency could not file the charge-sheet (challan) and, as such, he was granted statutory bail under Section 167(2), Cr.P.C., on 22.09.2006. The petitioner remained on bail upto 29.02.2012, when the order of conviction and sentence was passed by the learned trial Court. During pendency of his appeal before this Court, the petitioner remained in Jail and still he is behind the bars. Learned trial Court has dismissed the application for grant of bail to the petitioner, primarily on the

ground that serious allegations were emerging against him. It is not in dispute that co-accused of the petitioner are on bail. This Court finds that the allegations are serious against the petitioner, but the fact that he remained on bail for approximately six years during the pendency of the trial and now the trial has attained the same status as it was prior to the conviction and sentence of the petitioner on 29.02.2012.

Keeping in view the totality of the facts and circumstances of the case, the present petition is accepted. Petitioner, Dilbagh Singh, son of Gurdip Singh, resident of Ward No. 12, Khem Karan, Tehsil Patti, District Tarn Taran, is directed to be released on bail during the pendency of the trial of the present case subject to his furnishing bail bonds to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate, Tarn Taran.

December 09, 2015
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(NARESH KUMAR SANGHI)
JUDGE