

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

CRM-M-40929-2015

Date of decision: 18.12.2015

Palwinder Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

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

Mr. Daljit Singh Virk, AAG, Punjab.

RAMESHWAR SINGH MALIK, J. (ORAL)

Petitioner seeks bail pending trial in FIR No.234 dated 04.12.2013 under Sections 363, 366-A, 380, 376, 411 IPC, registered at Police Station Dharamkot, District Moga.

Learned counsel for the petitioner, at the very outset, fairly states that present one is a second petition under Section 439 Cr.P.C. He refers to the order dated 19.05.2015 passed by this Court in earlier petition bearing CRM-M-8277-2015 filed by the petitioner. Learned counsel for the petitioner would contend that HC Amandeep Singh of Police Station Dharamkot, District Moga passed on factually incorrect instructions to learned counsel for the State and based on that wrong information, order dated 19.05.2015 was passed by this court. He submits that the prosecution evidence is still going on and 03 PWs have been summoned for 08.01.2016. He prays for allowing the present petition.

On the other hand, learned counsel for the State, on instructions from ASI Gurpal Singh, Police Station Dharamkot, Moga, submits that although it is a matter of record, that this Court passed the abovesaid order dated 19.05.2015 on the statement made on behalf of the respondent-State, on the basis of wrong information supplied by HC Amandeep Singh, Police Station Dharamkot, District Moga, yet he tries to justify the same, contending that it was a bonafide mistake. So far as the instant petition is concerned, he opposes the same contending that allegations against the petitioner were direct and serious. He prays for dismissal of the present petition.

After hearing the learned counsel for the parties and going through the record of the case, this Court is of the considered opinion that keeping in view the peculiar facts and circumstances of the case noted above and particularly the order dated 19.05.2015 passed by this Court, petitioner has been found entitled for bail pending trial. It is so said because prosecution evidence is still going on and conclusion of trial will take some time. Petitioner is inside the jail for the last more than one year and nine months.

In view of the above and without commenting anything further on merits at this stage, lest it should prejudice the case of either side at a later point of time, instant petition is 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.

However, before parting with the order, Senior Superintendent of Police, Moga is directed to look into the conduct of HC Amandeep Singh,

Police Station Dharamkot, District Moga who passed on factually wrong and incorrect instructions to learned counsel for the State in CRM-M-8277-2015 (Palwinder Singh Vs. State of Punjab) to the effect that prosecution evidence has already been closed and the next date of hearing before the learned trial Court was 25.05.2015 for recording the statement of the accused under Section 313 Cr.P.C. It was this factually wrong statement made by HC Amandeep Singh, Police Station Dharamkot, District Moga which led to passing of the abovesaid order dated 19.05.2015 by this Court. Senior Superintendent of Police, Moga is further directed to take the matter to its logical end by passing an appropriate order strictly in accordance with law but in any case within a period of three months from today. Thereafter, he shall file his own affidavit before this Court along with Action Taken Report.

Disposed of, accordingly.

[RAMESHWAR SINGH MALIK]
JUDGE

18.12.2015
vishnu