

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

CRM-M-43090 of 2014

DATE OF DECISION : February 23, 2015

Vinay

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE M.JEYAPPAUL

HON'BLE MR. JUSTICE DARSHAN SINGH

Present:- Mr. M.S. Rana, Advocate for the appellant.

Ms. Tanisha Peshawaria, DAG, Haryana.

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the digest? Yes/No

M.JEYAPPAUL, J.

1. The petition is filed by accused Vinay praying for grant of regular bail in a case registered under Sections 148, 149, 302, 307, 323 and 120-B of the Indian Penal Code and Section 25 of the Arms Act.

2. Accused Vinay was in fact granted bail by the trial Court itself, considering the role allegedly played by him but he absconded during the course of trial on 21.5.2014. Surety proceedings were initiated. A penalty of ₹20,000/- was imposed on the surety as he was

not in a position to produce accused Vinay. Warrant of arrest issued did not also fructify. The proclamation proceedings were also initiated under Section 82 of the Code of Criminal Procedure. An ultimatum to declare him as a proclaimed offender with a threat to launch a separate criminal case under Section 174-A IPC was given but two days prior to the expiry of the above ultimatum given by the trial Court, accused Vinay surrendered on 29.10.2014. He was remanded to judicial custody by the trial Court. He moved an application for bail before the trial Court.

3. The trial Court having given cogent reasons that the absence of accused Vinay was not only deliberate but also intentional, declined the plea for bail sought for by him. The trial Court also referred to the conduct of the other accused which virtually stalled the trial proceedings for about eight long years.

4. The learned counsel appearing for petitioner Vinay would submit that the petitioner had not played any vital role in the offence alleged against him along with 30 other accused. The petitioner in fact took treatment for depression as evidenced by Annexure P2. Further, it is his submission that the petitioner had never absented himself prior to 21.5.2014. Therefore, it is his submission that the petitioner may be released on bail.

5. We heard the submission made by learned DAG for the State objecting to the grant of bail on the ground that the trial Court could not proceed with the trial of the matter on account of the abscondence of very many accused in this case. She would also

submit that no details as regards the depression encountered by the petitioner were produced. Annexure P2 is only a ruse to get bail from the Court, she would submit.

6. As rightly pointed out by learned DAG for the State, the petitioner had not produced any other document except some prescription obtained by the petitioner two days prior to his surrender to show that he was afflicted with depression. Therefore, the medical ground urged before this Court stands rejected.

7. The fact remains that the petitioner is facing trial in the case in F.I.R. No. 198 dated 12.7.2006 under Sections 148, 149, 302, 307, 323 and 120-B of the Indian Penal Code and Section 25 of the Arms Act along with 30 other accused. The trial Court has given a graphic account of the abscondence of other accused as well which virtually stalled the trial proceedings for about eight long years. As on today, it appears that accused Jagbir, Basant, Mahinder, Mukesh and Vijay have been absconding and as a result of which, the trial of the case has been adversely affected. As far as the co-accused Vijay is concerned, the order passed by the trial Court on 12.11.2014 would read that in fact Vijay who absconded earlier, surrendered again before the Court when proclamation proceedings were effectively initiated by the trial Court as against him. The status report filed by the respondent police would establish that the co-accused Vijay has again absconded.

8. The petitioner Vinay had absconded on 21.5.2014. He surfaced and surrendered before the Court only on 29.10.2014 after a period of about five long months. The surrender was not voluntary,

inasmuch as all effective coercive proceedings had been initiated by the trial Court. In other words, surety proceedings under Section 446 Cr.P.C. were initiated. Surety was fastened with a penalty of ₹20,000/- for not producing the petitioner Vinay. Warrant of arrest also was issued but the presence of petitioner could not be secured by the respondent police. Finally, the trial Court left with no other option initiated effective coercive proceedings issuing proclamation to declare the petitioner as a proclaimed offender invoking the provision under Section 82 Cr.P.C. Having suffocated by the coercive proceedings initiated by the trial Court, the petitioner has surrendered.

9. Inasmuch as the co-accused had the tendency to abscond even after their surrender was accepted and they were let on bail, in our view, granting bail to the petitioner in the above facts and circumstances would definitely hamper the trial as opined by the trial Court.

10. We do not find any merit in the petition praying for bail. Therefore, the petition stands dismissed.

**(M. JEYAPPAUL)
JUDGE**

**(DARSHAN SINGH)
JUDGE**

February 23, 2015

p.singh