

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

CRR No. 2823 of 2015(O&M)

Date of decision : 17.09.2015

Krishan son of Jug Lal

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE M. JEYAPPAUL

HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr.S.K.Garg Narwana, Sr.Advocate
with Mr. Rahul Deswal, Advocate
for the petitioner.

M.JEYAPPAUL, J.

The revision petitioner Krishan son of Jug Lal who was one of the accused in case No. SC-33/30.11.2006 had failed to appear before the trial Court for the hearing on 27.07.2015. His counsel also reported no instructions for conducting the trial in absence of the revision petitioner.

The trial Court having lamented that only 25 witnesses out of 128 witnesses have so far been examined in a case where charges had been framed as early as on 12.09.2008/ 08.05.2009 and having considered the fact that absence of the revision petitioner without giving any instructions to his counsel to go ahead with the trial in his absence disturbed the trial proceedings ordered for a separate

trial qua the revision petitioner Krishan son of Jug Lal.

We have heard the submissions made by learned senior counsel appearing for the revision petitioner.

It is his submission that the trial Court should not have ordered for separate trial qua the revision petitioner Krishan son of Jug Lal on account of his absence for one hearing during the course of trial.

We understand the inconvenience caused to the trial Court in conducting trial of a case where charges were framed as early as on 12.09.2008/08.05.2009 on account of absence of one or the other accused in the case. We also appreciate the commitment shown by the learned trial Judge in completing the trial at the earliest point of time.

In our considered view, only if an accused absconds for at least 3 or 4 hearings, then the trial Court should adopt the procedure of separating the trial qua the accused who absconded. In other words, if the efforts taken by the police to apprehend the absconding accused in the aftermath of issuance of warrant against such an accused did not fructify, the question of separation of trial would arise.

If at all, the trial Court finds that one or the other accused remains absent wantonly to delay the trial proceedings, the trial Court is competent to cancel the bail granted to the accused concerned and send him to prison and go ahead with the trial of the case. But, the procedure now

adopted by the learned trial Judge separating the trial just because an accused has absconded himself for only one hearing is not found to be appropriate.

It is now brought to our notice by the learned senior counsel appearing for the revision petitioner Krishan son of Jug Lal that the revision petitioner has already surrendered and has been sent to judicial custody. Under such circumstances, the separate trial qua revision petitioner Krishan son of Jug Lal would not meet the ends of justice.

In view thereof, the impugned order directing separate trial qua the revision petitioner Krishan son of Jug Lal alone stands set aside.

The application for grant of bail filed by the revision petitioner herein shall be dealt with by the learned trial Court in accordance with law.

Petition stands disposed of accordingly.

**(M.JEYAPPAUL)
(JUDGE)**

**(DARSHAN SINGH)
JUDGE**

September 17, 2015

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