

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

**CRM-M-30951-2016
Date of decision :28.09.2017**

Lakha Singh alias Bhullar

..... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE H.S. MADAAN

Present : Ms. Satwant Mehta, Advocate
for the petitioner.

Ms. Jaspreet Kaur, AAG, Punjab.

H.S. MADAAN, J.

This petition under Section 482 Cr.P.C. has been filed by petitioner – Lakha Singh alias Bhullar praying that his sentence dated 15.01.2015 passed in Sessions case RBT No.23731 of 2013 pertaining to FIR No.185 dated 30.10.2011 registered at Police Station Sultanwind, Amritsar by Additional Sessions Judge, Amritsar and in Criminal Case No.155 of 2010 dated 17.07.2015 pertaining to FIR No.145 dated 22.10.2009 registered at Police Station Jhabal District Tarn Taran to run concurrently and further to direct respondent No.2 to release the petitioner upon completion of concurrent sentence.

Inter alias in the petition it is contended that the petitioner was convicted in Sessions case RBT No.23731 of 2013 for offence under Section 22 of the NDPS Act to undergo rigorous imprisonment for 10 years with a observation that period of detention already undergone by the accused shall be set off vide judgment dated 15.01.2015; that the petitioner has been convicted in Criminal Case No.155 of 2010 by Additional Chief Judicial Magistrate, Tarn Taran for offence under Sections 406 and 420 IPC and sentenced to undergo rigorous imprisonment for two years; that the period of detention already undergone by the accused shall be set off vide judgment dated 17.07.2015. According to the petitioner, he has already undergone imprisonment for two years passed in criminal case No.155 of 2010 by learned Additional Chief Judicial Magistrate, Tarn Taran in FIR No.145 dated 22.10.2009, however, learned Additional Chief Judicial Magistrate, Tarn Taran has not ordered the sentence to run concurrently passed in Sessions case RBT No.23731 of 2013 for the offence under Section 22 of the NDPS Act; that the petitioner who was later released on bail in Sessions case in RBT No.23731 of 2013 under Section 22 NDPS Act vide CRM-12927 of 2016 in CRA-S-5080-SB-2015 dated 11.05.2016, however, the petitioner after filing the surety bonds in that case was not released by jail authorities since the petitioner was also convicted in Criminal Case No.155 of 2010 under Sections 420 and 406 IPC; that thereafter on 25.05.2016 the Superintendent Central Jail Amritsar Sent a written intimation to the C.J.M. Amritsar vide letter No.3883 dated 25.05.2016 seeking the information with regard to the sentence undergone by the petitioner in case No.155 of 2010 under Sections 420, 406 IPC and as to whether the sentence in the both case to run concurrently or not.

According to the petitioner he has not filed any appeal since he has already undergone sentence awarded to him; that till date no intimation or direction has been sent to Superintendent Central Jail, Amritsar for release of the petitioner. The petitioner has already undergone two years imprisonment in case No.155 of 2010 under Sections 420 and 406 IPC. The petitioner prays that such petition be allowed.

The respondents however, opposed the application. In the written reply filed by them, learned State counsel has contended that the petitioner does not fulfill the terms and conditions of the Criminal Procedure Code & Punjab Jail Manual, as such, he is not entitled to the relief prayed for; that the petitioner has committed separate offence relating to separate police station and for that he was sentenced by Additional Sessions Judge, Amritsar, whereas his sentenced awarded by Additional Chief Judicial Magistrate, Tarn Taran is relating to Police Station Jhabal, Tarn Taran under Sections 420 and 406 IPC is quite different, therefore, the petitioner is not entitled to get the relief he has prayed for in the present petition.

I have heard learned counsel for the parties, besides, going through the record.

Learned counsel for the petitioner has referred to citation **Shafiq vs. State of M.P. And another, 2010(2) RCR (Criminal) 95 by Madhya Pradesh High Court**, it was a case *when accused had been convicted in two complaints under Section 138 of Negotiable Instruments Act and sentenced to one year R.I. in each case. The High Court directed that sentences in both the cases shall run concurrently.*

He further referred to authority **Sameer Ahmad and other vs.**

State of Haryana, 2010(2) RCR (Criminal) 612 by a Coordinate Bench of this Court wherein while dealing with the case *when the accused was convicted in three different criminal cases in different trials and sentenced to 27 years R.I. in the said cases. The sentences were ordered to run concurrently by applying benevolent provisions of Section 427 Cr.P.C. observing that if the sentences were not made to run concurrently, the accused may see their death within four walls of jail.*

Learned counsel has further relied upon State of **Punjab vs. Madan Lal, 2009(2) RCR (Criminal) 603** by the Apex Court, **Satnam Singh Puransing Gill vs. State of Maharashtra, 2009(1) RCR (Criminal) 703** by Full Bench of Bombay High Court wherein posing a question to itself *as to whether the accused / convicted and sentenced in two different cases and under offences and by different Courts. This Court can direct that sentences would run concurrently under Section 427 Cr.P.C., the answer was in affirmative.*

Section 427 Cr.P.C. provides that *when a person already undergoing a sentence of imprisonment is sentenced on a subsequent conviction to imprisonment or imprisonment for life, such imprisonment or imprisonment for life shall commence at the expiration of the imprisonment to which he has been previously sentenced, unless the Court directs that the subsequent sentence shall run concurrently with such previous sentence.*

Keeping in view the facts and circumstances of the case, I find it proper and appropriate to exercise jurisdiction under Section 427(1) Cr.P.C. and direct the sentences in two cases i.e. FIR No.145 dated 22.10.2009 registered at Police Station Jhabal District Tarn Taran vide judgment dated 17.07.2015 shall run concurrently with sentence in FIR

No.185 dated 30.10.2011 under Sections 22 of the NDPS Act, registered at Police Station Sultanwind, Amritsar carrying sentence to undergo rigorous imprisonment for 10 years and to pay a fine of ₹1,0,000/-, in default of payment of fine to further undergo rigorous imprisonment for a period of 06 months.

It is ordered accordingly.

With such observations, the petition is allowed.

28.09.2017

Gaurav Sorot

(H.S. MADAAN)
JUDGE

1. Whether reportable? **No**
2. Whether speaking / reasoned? **Yes**