

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

CRL. MISC. No.M-4465 OF 2017
DATE OF DECISION : 16th MARCH, 2017

Dilbar Singh

.... Petitioner

Versus

The Central Bureau of Investigation

.... Respondent

CORAM : HON'BLE MR. JUSTICE A. B. CHAUDHARI

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Present : Mr. J. S. Bedi, Senior Advocate with
Mr. Baljinder Singh, Advocate and
Mr. Gurbir Singh Dhillon, Advocate for the petitioner.

Mr. Sumeet Goel, Advocate, Retainer Counsel for CBI.

Mr. Charanjit Singh Bakshi, Advocate for the complainant.

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A. B. CHAUDHARI, J. (ORAL)

Reply filed by the CBI is taken on record.

Rule heard forth with consent of learned counsel for the
rival parties.

By filing this sixth petition the petitioner again seeks regular
bail case RC No.9(S) of 2012 dated 13.12.2012, registered under
Sections 302, 307, 326, 324, 201 read with Section 34 IPC and 27 of
Arms Act at PS CBI/SCB, Chandigarh, trial of which is pending before
the Special Judge, CBI at Patiala.

With the assistance of learned counsel for the parties, I have
perused the orders passed by this Court as well as by the Apex Court in
the matter of rejection of bail that were filed by the present petitioner.

The petitioner was arrested on 24.12.2010 and since then he is in jail.

Learned senior counsel for the petitioner submits that the only attribution to the petitioner is that he had caused a fire injury.

Per contra, learned counsel for the respondent-complainant submits that the petitioner is *prima facie* guilty for offence under Section 302 IPC also because of the *inter alia* common intention.

Learned counsel for the CBI as well as counsel for the complainant vehemently opposed the petition for regular bail.

It is not in dispute that successive petitions for regular bail by the petitioner have been filed and rejected by this Court. It is now a period of around six years already passed. At one point of time this Court had made following observations in its last order:

“The delay in the present case does not appear to be attributable to anyone i.e. neither the complainant nor to the accused party but is an inseparable part of the democratic adjudication of the procedure of trial which ensures fairness not only to the accused but also to the complainant. The delay is certainly a matter of concern in the present case but neither accused nor the petitioner could be said to be responsible for the delay in the present case. It will be premature at this stage to enter into the niceties of the trial to arrive at a conclusion that whether the present case is a case of self-defence or a case where

any party could be said to have acceded the self-defence.”

It is thus clear from the finding recorded by this Court, though in a petition for grant of bail, that neither the accused nor the complainant was responsible for the delay in the trial.

Learned counsel for the complainant as well as CBI submit that the injured witness Kulwinder Kaur remained to be examined.

In my opinion, when this Court had made an order in May 2016, it was the duty of the prosecution to examine Kulwinder Kaur, since all other witnesses have been examined, the trial cannot be conducted in a snail's speed particularly because the liberty of a person is involved.

In my opinion, the period of six years is good enough to grant bail to the petitioner. Apart from that, after examination of Kulwinder Kaur, the witnesses who are required to be examined, are all official witnesses. At any rate, the care will be taken to protect the interest of the prosecution, since only one injured witness is to be examined by the CBI.

In that view of the matter, I make the following order:

ORDER

- (i) The CRL. MISC. No.M-4465 OF 2017 is allowed
- (ii) The petitioner-Dilbar Singh be released on bail to the satisfaction of the concerned CBI, Court/CJM/Duty Magistrate.
- (iii) The petitioner shall not enter the limits of village Baryali, Tehsil and District SAS Nagar (Mohali) till the examination

and cross-examination of Kulwinder Kaur is completed and also shall not apply for modification of this condition till then.

- (iv) The petitioner shall not tamper or influence the prosecution witness(es).
- (v) The prosecution shall make attempts to examine the remaining witnesses and complete the trial as expeditious as possible.
- (vi) The CBI/complaint will be at liberty if need be arise.

16th March, 2017
'raj'

(A. B. CHAUDHARI)
JUDGE