

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

CRM-M No.1249 of 2018

Date of decision : 14.05.2018

Gurvinder Singh alias Gori

.....Petitioner

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present : Mr. A.P.S. Deol, Senior Advocate with
Mr. H. S. Deol, Advocate for the petitioner.

Mr. Gaurav Garg Dhuriwala, Senior D.A.G., Punjab.

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DAYA CHAUDHARY, J.

The present petition has been filed under Section 439 of the Code of Criminal procedure, 1973 (hereinafter referred to as 'the Cr.P.C.') for grant of regular bail to the petitioner in case FIR No.8 dated 15.02.2017 under Sections 130, 212, 216, 216-A of the Indian Penal Code, 1860 (hereinafter referred to as 'the IPC') registered at Police Station Ajitwal, Distt. Moga during pendency of the trial.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the case, whereas he was not involved in the alleged crime. Learned counsel further submits that the petitioner has been implicated only because of the reason that he was in relation with co-accused Gurpreet Singh Sekhon. He further submits that no evidence was collected to establish that the petitioner has provided any help/assistance in

any manner to co-accused Gurpreet Singh Sekhon. Even after arrest of the petitioner, no evidence was collected to show his assistance or involvement in commission of the alleged offence. Learned counsel also submits that the offence under Section 216 IPC is punishable with imprisonment for a period, which may extend to three years and said offence is bailable and even the offence under Section 212 IPC is punishable with imprisonment for a period, which may extend to five years and said offence is also bailable and triable by Magistrate. Petitioner is in custody since 05.11.2017 and he is not involved in any other case.

On the other hand, learned State counsel has opposed the submission made by learned counsel for the petitioner. However, he submits that during course of investigation main accused Gurpreet Singh Sekhon and other accused were apprehended and arrested by the Superintendent of Police (Investigation) on 12.02.2017 from the house of Kultar Singh alias Goldi and recovery of arms, ammunition, snatched car and fake IDs was also effected. Learned State counsel also submits that the petitioner was well aware about the involvement of co-accused but still shelter was provided to the accused persons and as such, he does not deserve to be released on bail.

Heard arguments of learned counsel for the petitioner as well as learned State counsel and have also perused the contents of FIR and other documents on the file.

Admittedly, as per the contents of the FIR, the petitioner has been made accused being brother-in-law of co-accused Gurpreet Singh

Sekhon on the ground that he has given assistance to him. It is also not disputed that Gurpreet Singh Sekhon, who was also accused in case FIR No.142 dated 27.11.2016 P.S. Kotwali Nabha, was not arrested from house of the petitioner but he was arrested from house of one Kultar Singh alias Goldi, from where recovery was effected. Offence under Section 216 IPC as well as 212 IPC are bailable and triable by Magistrate. Offence under Section 216-A IPC has been added subsequently. No connecting evidence has been found in the investigation and only on the basis of allegation that the petitioner has given shelter to co-accused Gurpreet Singh Sekhon being his brother-in-law, he has been involved in the present case. Neither in the FIR nor in the argument it has been submitted that any connecting evidence has been collected by the investigating agency.

The petitioner is in custody since 05.11.2017 and no other case is there against him. There is no progress in the trial in spite of passing approximately one year and as such, trial may take long time to conclude and no purpose would be served by keeping the petitioner in custody.

It is well settled that at pre-conviction stage, there is presumption of innocence and object of keeping a person in custody is to ensure his availability to face trial and to receive sentence that may be passed. Purpose of detention is not supposed to be punitive or preventive. The delay in commencement and conclusion of trial is an important factor which is required to be taken into consideration and as such the accused cannot be kept in custody for indefinite period in case the trial is not likely to be concluded within reasonable time. This view has been observed by

Hon'ble the Apex Court in cases *Kalyan Chandra Sarkar Vs. Rajesh Ranjan 2005(1) R.C.R. (Criminal) 703, State of U.P. Vs. Amarmani Tripathi 2005(4) R.C.R. (Criminal) 280, State of Kerala Vs. Raneef 2011(1) R.C.R. (Criminal) 381* and *Sanjay Chandra Vs. CBI 2011(4) R.C.R. (Criminal) 898*.

Accordingly, by considering the stage of the trial, the custody period of the petitioner and also the fact that no connecting evidence has been shown to be found against him, the present petition is allowed and petitioner Gurvinder Singh alias Gori is directed to be released on regular bail to the satisfaction of the trial Court/Duty Magistrate, Distt. Moga.

However, it is made clear that any observation made here-in-above, shall not be construed as an expression of opinion on the merits of the case during the period of trial.

14.05.2018

sunil yadav

**(DAYA CHAUDHARY)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No