

In the High Court of Punjab & Haryana at Chandigarh.

CRM-M-14323-2018

Date of decision: 18.04.2018

Satbir Singh

..... Petitioner.

VS.

State of Haryana

..... Respondent.

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Sunil Saharan, Advocate
for the petitioner.

Mr. Himmat Singh, DAG, Haryana.

ARVIND SINGH SANGWAN,J.(ORAL)

Prayer in this petition is for grant of regular bail to the petitioner in case FIR No. 444 dated 21.10.2014 under Section 148, 149, 452, 302 and 34 of IPC registered at Police Station Tosham, District Bhiwani.

Counsel for the petitioner has placed on record photocopies of various interim/zimni orders passed by the trial Court w.e.f. 04.07.2016, to submit that on 04.07.2016, the case was fixed for leading the defence evidence and for arguments. Thereafter, the case was adjourned on various dates for leading the defence evidence and, thereafter, on 01.10.2016, the trial Court after noticing the interim order dated 28.05.2016 passed in CRR-4858 of 2015, has adjourned the case with the observation that this Court has stayed the passing of the final judgment. Thereafter, on subsequent dates, the case is adjourned and no further proceedings are undertaken by the trial Court till date.

Counsel for the petitioner has further submitted that on an earlier occasion, he has filed CRM-M-34915-2016 in which this Court has passed the following order on 27.10.2016:-

“This is a petition for directing the trial Court to proceed with the trial of the case.

Learned counsel for the petitioner states that it was disputed that the co-accused was juvenile and the complainant side had challenged the order declaring him to be a juvenile by filing CRR-4858-2015 and this Court had stayed the passing of the trial order of the co-accused. The petitioner was being tried separately and his trial has not been stayed but because of the stay in the case of the co-accused the Trial Court is not proceeding with the matter. However, neither the complainant nor the Registry of this Court communicated the order of stay of further proceeding to the Juvenile Justice Board. Resultantly the Juvenile Justice Board went ahead with the trial and acquitted the co-accused- Ravinder.

Learned DAG and learned counsel for the complainant have accepted these factual assertions.

In the circumstances, adjourned to 27.01.2017 with a direction to the trial Court to proceed with the trial of the petitioner.

To come up along with CRR-4858-2015.”

Counsel for the petitioner has, thus, submitted that the trial Court is not proceeding further in the case and the petitioner is in judicial custody since 24.10.2014 and a period of more than 3 ½ years has lapsed. Counsel for the petitioner further submits that one of the co-accused, namely, Ravinder was declared juvenile. During the pendency of the trial before the Juvenile Justice Board, the aforesaid CRR-4858 of 2015 was filed, in which this Court has directed that passing of the final judgment be stayed. However, in the meantime, the Juvenile Justice Board has acquitted

co-accused Manoj and Ravinder vide separate judgments.

Counsel for the petitioner further submits that the Juvenile Justice Board has passed the order despite the fact that there was stay order granted by this Court in CRR-4858 of 2015. The said petition is pending for 30.05.2018 and explanation of the Juvenile Justice Board has been called for.

Counsel for the petitioner has, thus, submitted that though after passing of the order dated 27.10.2016, no stay is operating in the present case, however, the trial Court is not proceeding further taking into account the interim order dated 28.05.2016, passed in CRR-4858 of 2015, which, infact, has arisen out of separate proceedings/order passed by the Juvenile Justice Board as well as the Additional Sessions Judge.

Learned State counsel, on instructions from HC Jagdish Singh, has not disputed the said factual position, on the basis of photocopies of the interim order passed by the Additional Sessions Judge, Bhiwani. It is apparent that when the order dated 28.05.2016 was passed in CRR-4858-2015, the trial was at the stage of defence evidence and arguments and some defence evidence was already led.

Case file of CRR-4858 of 2015 has been summoned and the perusal of the same shows that co-accused Ravinder, who stands acquitted by Juvenile Justice Board on 14.09.2016, was declared a Juvenile by the Court of Additional Sessions Judge, Bhiwani, vide order dated 26.11.2015, in an appeal filed by him. The aforesaid CRR-4858-2015 has been filed by complainant-Satyabhan challenging the aforesaid order dated 26.11.2015, vide which co-accused Ravinder was declared a juvenile. Thus, the controversy involved in CRR-4858-2015 is on different footing and there is

no legal impediment for the trial Court to proceed further and decide the trial of petitioner-Satbir Singh.

After hearing learned counsel for the parties, specially in view of the fact that on an earlier occasion, vide order dated 27.10.2016, passed in CRM-M-34915 of 2016, a direction has already been issued to the trial Court to proceed with the trial, it is clarified and directed that the trial Court will proceed further in the trial of the petitioner-Satbir and will decide the same in accordance with law.

Since, the petitioner-accused is in judicial custody for the last 3½ years, it is directed that the trial/case will be decided preferably within a period of 2 months from today.

Disposed of.

18.04.2018
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(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No