

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-19338 of 2014

Date of Decision : October 03, 2018

Raj Kumar

.....Petitioner

VERSUS

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE T.P.S.MANN

Present : Mr. Ashit Malik, Advocate
for the petitioner.

Mr. Praveen Bhadu, Assistant Advocate General, Haryana.

T.P.S. MANN, J.

Petitioner-Raj Kumar has filed the present petition under Sections 427 and 482 Cr.P.C. wherein he has sought running of the sentences of imprisonment awarded to him in the case arising out of FIR No.191/2005, Police Station, Tosham, District Bhiwani to run concurrently with the sentence of imprisonment imposed upon him in the case arising out of FIR No.96 dated 1.6.2001, Police Station, Tosham, District Bhiwani.

The petitioner was tried in FIR No.191/2005 for committing the offences punishable under Sections 307, 326, 324, 323, 452 IPC. Vide judgment and order dated 24.7.2007, learned Additional Sessions Judge (Fast Track Court), Bhiwani convicted him under Sections 323/34 IPC and sentenced him to undergo rigorous imprisonment for six months and to pay a fine of Rs.1,000/-. He was further convicted under Sections 324/34 IPC and sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs.1,000/-. He was further convicted under Sections 326/34 IPC and sentenced to undergo rigorous imprisonment for six years and

to pay a fine of Rs.3,000/-. He was further convicted under Sections 307/34 IPC and sentenced to undergo rigorous imprisonment for ten years and to pay a fine of Rs.5,000/-. He was also convicted under Sections 452/34 IPC and sentenced to undergo rigorous imprisonment for six months. All the substantive sentences of imprisonment were ordered to run concurrently.

Against his conviction and sentence, the petitioner filed Criminal Appeal S-2339-SB of 2007. Vide judgment dated 3.4.2014, a co-ordinate Bench of this Court upheld the conviction of the petitioner, as recorded by the learned trial Court. However, his substantive sentence of rigorous imprisonment for ten years under Sections 307/34 IPC was reduced to rigorous imprisonment for six years. Sentences of other offences and so also sentences of fine were ordered to remain in tact. In the meantime, on 26.3.2014, the petitioner submitted an application before the Hon'ble Administrative Judge of Sessions Division, Hisar during the inspection of jail wherein he prayed for concurrent running of substantive sentences of imprisonment awarded to him in the case arising out of FIR No.191/2005 with the sentence of imprisonment imposed upon him in the case arising out of FIR No.96 dated 1.6.2001, Police Station, Tosham. In the said case, the petitioner stands convicted under Sections 307/34, 436/34, 429/34 IPC and Section 3 of the Explosive Substantives Act and sentenced to undergo rigorous imprisonment for seven years as the various sentences of imprisonment awarded

were ordered to run concurrently. The appeal (Criminal Appeal S-1431-SB of 2008) filed by him was found to be devoid of any merit and, accordingly, dismissed by a co-ordinate Bench of this Court on 2.9.2015.

Upon notice, learned State counsel filed the reply. Subsequently, on 17.8.2015, a co-ordinate Bench of this Court ordered the hearing of the present application alongwith Criminal Appeal S-1402-SB of 2008. The said appeal has been disposed of by this Court vide an order of even date.

Learned counsel for the petitioner has submitted that the sentence of imprisonment imposed upon the petitioner in both the cases be ordered to run concurrently. In case, the sentence of imprisonment are not ordered to run concurrently, he is likely to stay in jail for a pretty long time. Chances of his expiring within the four walls of the jail cannot be ruled out. Therefore, the substantive sentences of imprisonment imposed upon the petitioner in the two cases be ordered to run concurrently.

Learned State counsel has vehemently opposed the prayer by submitting that the petitioner, who is involved in the aforementioned two cases and one more case does not deserve any leniency.

Having heard learned counsel for the parties, this Court finds that it has unfettered powers under Section 427 Cr.P.C. to give suitable direction for making the sentences in the two cases to run

concurrently. Reference in this regard can be made to Full Bench decision of this Court in the case of Jang Singh Vs. State of Punjab, 2008(1) RCR (Criminal) 323. In case, the substantive sentence of imprisonment imposed upon the petitioner in the aforementioned two cases are not ordered to run concurrently, he will be required to undergo imprisonment for thirteen years. He is in custody for the last more than ten years. It has been pleaded by him that he is the only child of his parents; he is unmarried; and has already lost his mother. Under these circumstances, this Court is of the view that the substantive sentence of imprisonment imposed upon the petitioner in the two cases can be ordered to run concurrently.

Resultantly, the petition is accepted and it is ordered that the substantive sentence of imprisonment imposed upon the petitioner in the case arising out of FIR No.191/2005, Police Station, Tosham, District Bhiwani, which is subject matter of Criminal Appeal S-2339-SB of 2007 shall run concurrently with the substantive sentence of imprisonment imposed upon him in the case arising out of FIR No.96 dated 1.6.2001, Police Station, Tosham, District Bhiwani, subject matter of Criminal Appeal S-1431-SB of 2008.

(T.P.S. MANN)
JUDGE

October 03, 2018
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Whether speaking/reasoned : YES / NO

Whether reportable : YES / NO