

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-27341-2018  
Date of decision: 11.07.2018

Pankaj @ Pinku

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Rajesh Dhankhar, Advocate  
for the petitioner.

Mr. Himmat Singh, DAG, Haryana.

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**ARVIND SINGH SANGWAN, J. (ORAL)**

Prayer in this petition is for grant of regular bail in FIR No.207 dated 02.06.2014 under Sections 302, 120-B, 216, 34 IPC and Section 25 of Arms Act, registered at Police Station City Sonapat, District Sonapat.

Learned counsel for the petitioner submits that similarly situated co-accused of the petitioner namely Parveen @ Kachi has been granted the concession of regular bail by this Court on 15.03.2018, by passing the following order: -

*“Counsel for the petitioner has submitted that vide order dated 19.02.2015, the petitioner was granted regular bail by the Additional Sessions Judge, Sonapat by observing that the complainant/ Suraj Bhan – PW2, his son namely Rohit – PW5 and an eye-witness namely Mahavir – PW3 have not supported the*

*prosecution case and they have been declared hostile and the remaining witnesses are the official witnesses. Counsel for the petitioner has further submitted that later on, on 09.12.2015, the petitioner could not appear before the trial Court as he was involved in some other case and his bail/surety bonds were cancelled by the trial Court. Counsel for the petitioner has drawn attention of this Court to an order dated 28.02.2017, where the trial Court has observed that the petitioner along with one more accused namely Pankaj were not produced by the Jail Authorities, to submit that since the petitioner is in judicial custody in some other case, therefore, he was not produced before the trial Court on account of lapse by the Jail Authorities.*

*Counsel for the petitioner has further argued that the total custody of the petitioner is more than 02 years and though, he is in judicial custody in other case/FIRs, yet he has a right to be granted bail in the present FIR on account of the fact that he was earlier granted regular bail and on one date, he has defaulted his appearance on 09.12.2015, when his bail/surety bonds were cancelled by the trial Court.*

*Counsel for the State has filed the custody certificate today in the Court and on instructions from ASI Satish Kumar, has submitted that the petitioner has undergone more than 02 years of judicial custody and opposed the prayer for bail on the ground that he is involved in other FIRs as per Custody Certificate.*

*Without commenting anything on merits of the case and in*

*view of the fact that the petitioner was earlier granted regular bail in this case vide order dated 19.02.2015, the petition is allowed and the petitioner is ordered to be released on bail subject to furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate.*

*However, it is made clear that if the petitioner is involved in other cases/FIRs and is in judicial custody, he shall be released only subject to grant of bail in those cases/FIRs.*

*It will also remain open for the prosecution to apply for cancellation of bail, if the petitioner is found misusing the concession of bail, in any manner.*

Learned counsel for the petitioner further submits that the petitioner was also granted regular bail on 11.03.2015, however, he was involved in some other cases and therefore, he could not appear before the trial Court and his bail/surety bonds were cancelled and he was arrested on 30.08.2016 and since then, he is continuously in judicial lockup and is facing the trial. It is further submitted that till date, the petitioner has undergone 02 years, 04 months and 02 days of actual sentence and all the main prosecution witnesses, as noticed in the aforesaid order, have not supported the prosecution version.

Learned State counsel has filed the custody certificate and has opposed the prayer for bail on the ground that the petitioner is involved in some other cases/FIRs.

A perusal of the custody certificate shows that the petitioner is either on bail or has undergone the sentence/acquitted in other FIRs.

Without commenting anything on merits of the case, considering the fact that the petitioner was earlier granted regular bail vide order dated 11.03.2015 and the prosecution witnesses have not supported the prosecution version and also in view of the fact that the petitioner has undergone 02 years, 04 months and 02 days of judicial custody and conclusion of the trial will take some time, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bond to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it is made clear that if the petitioner is involved in other cases/FIRs and is in judicial custody, he shall be released only subject to grant of bail in those cases/FIRs.

It will also remain open for the prosecution to apply for cancellation of bail, if the petitioner is found misusing the concession of bail, in any manner.

Petition is disposed of.

**[ ARVIND SINGH SANGWAN ]**  
**JUDGE**

11.07.2018  
*vishnu*

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No