

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-40691-2017

Date of decision: 19.02.2018

Makhan Singh @ Suraj Singh

...Petitioner

V/s.

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. J.S. Gill, Advocate
for the petitioner.

Ms. Rajni Gupta, Sr. DAG, Punjab
for the respondent-State

SUDIP AHLUWALIA, J. (Oral)

This is an application for grant of regular bail in a case FIR No. 03 dated 05.02.2012, under Sections 302/34, IPC and offence under Sections 379/201/411 IPC (added later on)& under Section 25 of the Arms Act registered at Police Station Sadar Thulliwal, District Barnala.

The basic ground made on behalf of the petitioner is that he was arrested on 19.03.2012 in the present case and has thereafter remained incarceration and in the given circumstances his constitutional right to a speedy trial has been infringed upon.

Reliance is placed upon a full bench decision of this Court in *Dilip Singh alias Deepa v. State of Punjab 2010 (2) R.C.R. (Criminal) 566*, wherein it was held *inter alia* :

- (a) long pendency of the trial or an appeal after conviction would be a ground for consideration for grant of bail or suspension of sentence of an accused or a convict as the case may be in the spirit of [Article 21](#) of the Constitution of India;
- (b) In the case of delay in conclusion of the trial the right is of consideration for release on bail and not an automatic

right of grant of bail. In the consideration process for the grant of bail on the ground Cr. Appeal No.132-DB of 2007 [27] of delay in concluding the trial it shall have to be seen who was responsible for the delay. In case it is the accused who has delayed the trial no relief can be granted. In case of delay by the prosecution, which is oppressive or unwarranted, besides, affecting the right of an accused under-trial in terms of [Article 21](#), remedial orders including grant of bail or fixing a time frame for the conclusion of the trial are to be passed.

(d) While considering the case for release from custody on bail during trial or suspension of sentence pending an appeal the Court is also to consider:-

(i) the nature of the offence;

(ii) the manner in which the offence has occurred;

(iii) the role attributed to the accused or the appellant as the case may be seeking bail or suspension of his sentence;

(iv) the nature of gravity or heinousness of the crime or cruel mode of its execution;

(v) whether a bail earlier granted had been misused and other Cr. Appeal No.132-DB of 2007 [28] criminal cases, if any, pending against the accused or the convict or other cases where he has been convicted;

(vi) the propensity and potentiality of the accused or the convict indulging in criminal activities while on bail;

(vii) the likelihood of an accused in case of an under-trial or a convict prisoner after his conviction to abscond or being a proclaimed offender, besides, in case of an under-trial prisoner the likelihood of his interfering in the trial of the case by influencing the witnesses or tampering with the evidence.

(viii) conduct of an accused or a convict while in jail and in the case of a convict whether he has misused the concession of parole or furlough;

(ix) whether the concession of bail, parole or furlough earlier granted has been misused;

Learned counsel for the State has submitted that no delay in trial can be attributed to the prosecution side and particularly at this stage since the prosecution evidence has already been closed and the matter is already pending before the learned trial Court for recording statements of the

accused persons under Section 313 of the Cr.P.C., and by now one out of three accused persons has already given such statement.

The offence involved in the present case is certainly one of the most heinous among those mentioned in the Indian Penal Code for which even the maximum possible punishment has been prescribed. It is further submitted that apart from this, the petitioner has been involved in more than 50 other criminal cases and has already been convicted in 28 of those, on account of which the requirement to be considered for grant of bail in such cases as noted in items (d) (i) and (vi) of the decision of Full Bench in ***Dilip Singh alias Deepa's case (supra)*** would come in the way.

Be that as it may, considering that prosecution evidence is already closed and the trial is virtually at its fag end, this Court is not inclined to release the petitioner at this stage.

The matter is disposed off with a direction upon the learned trial Court to complete the trial as expeditiously as possible and preferably within three months from the date of communication of this order.

If the needful is not done, the petitioner shall be at liberty to approach this Court again so long as further delay is found not to be attributable to him.

February 19, 2018

Divyanshi/Seema

**(SUDIP AHLUWALIA)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No