

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

CRM-M No.4480 of 2018

Date of decision : 05.07.2018

Bhagwant Singh @ Bhagwant Masih @ Bhagga

.....Petitioner

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present : Mr. Vipin Mahajan, Advocate for the petitioner.

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

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DAYA CHAUDHARY, J. (Oral)

The present one is the third petition filed by the petitioner under Section 439 of the Code of Criminal Procedure, 1973 (for short – 'the Cr.P.C.') for grant of regular bail to him in case FIR No.60 dated 02.05.2005 under Sections 302/148/149 IPC registered at Police Station Dhariwal, Gurdaspur.

Learned counsel for the petitioner submits that the petitioner was earlier granted regular bail but subsequently he remained absent from Court proceedings and ultimately, he was declared as proclaimed offender. He was arrested on 09.11.2013 and since then he is in custody. Learned counsel further submits that all other co-accused are on regular bail. The trial Court is not going with the proceedings because of the interim order passed by Hon'ble the Apex Court in a petition filed by co-accused Gurdeep Singh, who challenged his summoning under Section 319 Cr.P.C. As on today the petitioner has undergone custody of more than six years and no

effective hearing is given by the trial Court because of stay of the proceedings by Hon'ble the Apex Court. Learned counsel also submits that there is no other case pending against the petitioner. Co-accused Kulwinder Singh has been released on bail, whereas many other cases are there against him.

Learned State counsel submits that the proceedings before the trial Court have been stayed by Hon'ble the Apex Court qua co-accused Gurdeep Singh as is clear from order dated 13.09.2013 but the trial Court is not going on with the proceedings qua other accused.

Heard arguments of learned counsel for the petitioner as well as learned State counsel.

Custody period of the petitioner as well as the stage of the trial is not disputed. It is also not disputed that because of pendency of petition filed against summoning order under Section 319 Cr.P.C. moved by co-accused Gurdeep Singh, the trial Court is not proceeding further.

On perusal of order dated 13.09.2013, passed by Hon'ble the Apex Court in petition for Special Leave to Appeal 2013 CRLMP. No.18066, it has specifically been mentioned that there shall be stay of proceedings pending before the Additional Sessions Judge, Gurdaspur (Punjab) in Sessions Trial No.35/27.08.2005 insofar as petitioner is concerned. In that petition, petitioner was Gurdeep Singh. Meaning thereby, the proceedings were stayed qua co-accused Gurdeep Singh only and not qua other accused.

Keeping in view the custody period of the petitioner and also

the fact that there is no other case pending against him and that the other accused are on regular bail, the present petition is allowed and petitioner Bhagwant Singh @ Bhagwant Masih @ Bhagga is directed to be released on regular bail to the satisfaction of the trial Court.

However, it is made clear that in case no other order is there except order dated 13.09.2013, passed by Hon'ble the Apex Court, as mentioned above, there cannot be any stay of the proceedings qua other accused and trial Court is directed to proceed with the trial.

05.07.2018

sunil yadav

**(DAYA CHAUDHARY)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No