

CRM-M-19856-2018 (O&M)
Date of decision:14.01.2019

Tarsem Singh

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. P.S. Ahluwalia, Advocate for the petitioner.

Mr. Manish Dev Sharma, D.A.G., Haryana.

RAJBIR SEHRAWAT, J. (ORAL)

Prayer in this petition filed under Section 439 of Cr.P.C. is for grant of regular bail in case FIR No.103 dated 28.06.2017 under Sections 452, 302, 201 IPC, registered at Police Station Saha, District Ambala.

At the outset, learned counsel for the State; on instructions from SI Jagpal; submits that all the witnesses except one, namely, SI Bani Singh (Retired), have already been examined. Counsel has further submitted that the next date of hearing fixed before the trial Court is 28.01.2019. The above said witness shall also be examined on this date.

In view of the above submissions made by the counsel for the State, learned counsel for the petitioner submits that he does not wish to press the bail application, rather he would raise his arguments during the trial. However, it is submitted that the incarceration of the petitioner has already been prolonged due to non-examination of the witnesses on time by

the prosecution. Counsel has also referred to certain orders passed by the trial Court, whereby, learned Sessions Judge, Ambala has gone to the extent of requesting the Superintendent of Police, Ambala to ensure that witnesses are produced by the prosecution; with further observation that in most of the sessions trials witnesses are not being produced before the Court.

In view of the above, the present petition is dismissed as withdrawn with liberty to the petitioner to avail all his legally available pleas during the trial.

However, this Court finds that the counsel for the petitioner has rightly pointed out the reluctance of the prosecution in producing the witnesses; as required by the Court. Even the Judicial request made by the Sessions Judge, Ambala through judicial orders has not been properly heeded to by the police.

In view of this situation, this Court is left with no other option but to ensure that whoever witnesses are remaining to be examined, are examined on the next date of hearing.

Hence it is ordered that the witnesses, which the prosecution intends to examine in this case, shall be examined by the prosecution on the next date of hearing i.e. on 28.01.2019. However, it is further directed that in case any witness is not produced by the prosecution before the trial Court on the next date of hearing, then the Superintendent of Police, Ambala shall remain personally present before the trial Court; with his written explanation; as to why the witnesses are not being produced before the Court.

Still further it is ordered that in case all the witnesses are not

produced before the trial Court on the next date of hearing then, the trial Court shall issue non-bailable warrants against the remaining witnesses as well as against the Investigating Officer of the case and the S.P. Ambala shall ensure that all these persons are taken into custody forthwith. All these persons shall be kept in protective custody in the Central Jail, Ambala; till their examination and cross-examination is completed.

14.01.2019	(RAJBIR SEHRAWAT)
<i>ps-I</i>	JUDGE
<i>Whether speaking/reasoned</i>	<i>Yes / No</i>
<i>Whether reportable</i>	<i>Yes / No</i>