

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

**CRM-M No.37575 of 2019
Decided on: 10.12.2019**

Parveen @ Naveen

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. B.S. Makar, Advocate
for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.275 dated 02.09.2016, registered under Sections 186, 307, 333, 353, 120-B, 34 of the Indian Penal Code, 1860 (in short 'IPC') and 25, 27 of the Arms Act, 1959, at Police Station Sirsa Mandi Dabwali, District Sirsa.

Counsel for the petitioner has argued that the petitioner is in custody since 28.09.2016 and a period of 03 years has already been passed. Counsel for the petitioner has relied upon the order dated 24.09.2018 passed in CRM-M No.14931 of 2018, in which while granting regular bail to the co-accused namely Baldev @ Balla, the following order was passed by this Court:-

“...Heard.

Reply on behalf of State filed, which is taken on record.

It appears to be a routine reply without any serious efforts or suggestion to ensure that undertrials are produced in Courts on date fixed either in person or through video conferencing. It appears that State is not serious in ensuring the production of undertrials in Court and has not initiated steps to set up enough infrastructure in the Jails for production of the undertrials through video conferencing and one video conferencing set in every jail is not suffice for production of several undertrials in different Courts through video conferencing.

Learned State counsel submits that necessary steps are being taken up in this regard by the State in consultation with Director General of Police (Prison).

Petitioner in this case was arrested on 28.09.2016 by issuing production warrants. Till date, charge has not been framed as he was not produced in Court for the purpose of initiation of trial. Keeping in view the fact that a period of almost 2 years has elapsed and the charge has not been framed till date and in the event of charge being framed, conclusion of trial will take considerably long time, the present petition is allowed. Petitioner Baldev @ Balla is ordered to be released on regular bail on furnishing bail bond and surety bond to the satisfaction of concerned Chief Judicial Magistrate/Duty Magistrate, subject to following terms:-

a. The petitioner shall comply with the conditions mentioned in Section 437(3) Cr.P.C.

b. In the event of his absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn. The trial Court shall be competent to cancel his bail bond and surety bond and proceed to procure his presence in accordance with law. In that

eventuality the petitioner shall have to apply for bail afresh.

c. He shall not leave the country without prior permission of the Court.”

Counsel for the petitioner has further submitted that even one more year has been passed and till date, no witness of the prosecution has been examined. It is also submitted that the petitioner is involved in 04 other FIRs out of which in FIR Nos.74 and 108, he already stands acquitted and in 02 other FIRs, he is on bail.

Counsel for the State, on instructions from SI Ramesh, has not disputed the factual position but opposed the prayer for bail. It is also not disputed that the petitioner was arrested on 28.09.2016 and despite the a lapse of 03 years, no PW has been examined so far.

The only explanation given is that since the accused are lodged in different jails, the same could not be done.

A perusal of the order dated 24.09.2018 granting bail to the co-accused Baldev @ Balla, it is noticed that despite enough infrastructure in jail for conducting the trial through video conferencing, the trial is not proceeding further. The said order was passed on 24.09.2018 and even after more than 01 year, still the case is at the same stage and the trial is not proceeding further.

Without commenting anything on merits of the case, considering the fact that the petitioner is in judicial custody since 28.09.2016; the co-accused of the petitioner namely Baldev @ Balls has already been granted the concession of regular bail; the custodial interrogation of the petitioner is no more required and it will take some time in conclusion of the trial, this petition is allowed and the petitioner

is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

10.12.2019
yakub

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No