

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-12347-2019 (O&M)
Date of decision: 20.01.2020

Jagtar Singh

... Petitioner

Vs.

Central Bureau of Investigation, Chandigarh

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

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

Mr. Sumeet Goel, Standing counsel
for the respondent-CBI along with ASI Vijay Malhotra.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in case bearing RC No.3 (S) 2007/SCB/CHG dated 13.06.2007 under Sections 120-B, 363, 342, 302, 201 IPC (earlier FIR No.30 dated 05.02.2004 under Sections 363, 366 IPC, Police Station Tanda, District Hoshiarpur), registered at Police Station CBI, SCB, Chandigarh.

Learned counsel for the petitioner has argued that initially, the FIR was registered by the Punjab Police and an inquiry was conducted, in which the petitioner was exonerated. Thereafter, an application for discharge was moved before the trial Court, in which he was discharged on 31.05.2005. It is further argued that thereafter, the petitioner travelled abroad and was working in Germany and in the meantime, CRM-14764-M-2007 was filed by complainant

Balvir Kaur and this Court had directed CBI to investigate FIR No.30 dated 05.02.2004 under Sections 363, 366 IPC, Police Station Tanda, District Hoshiarpur. In the said FIR, Balvir Kaur has stated that on 31.01.2004, her daughter Amandeep Kaur had gone to the college for studies, but did not return back and she was trying to search her. Later on, she came to know that her daughter was fleeced by petitioner Jagtar Singh with intention to marry her, as he used to roam around her house. Thereafter, CBI investigated the case and filed the charge-sheet against co-accused Jarnail Singh, at the first instance and supplementary charge-sheet was filed against the petitioner on 21.07.2009.

Learned counsel for the petitioner has further argued that since the petitioner had travelled abroad in the month of September, 2006, the entire investigation was conducted in his absence and when co-accused Jarnail Singh faced the full length trial, complainant Balvir Kaur appeared as PW29 and one another witness Jasvir Singh appeared as PW31. The trial Court, with reference to the statements of these two witnesses, made the following observations: -

*“.... So far as circumstance No.6 is concerned, though prosecution examined PW5 Joginder Singh, uncle of Amandeep Kaur, who deposed that on 31.1.2004, after getting free from the function of **Prabhat Pheri**, Amandeep Kaur left for her college, and that relations were still there at the residence of PW29 Balvir Kaur complainant in village Khudda, who asked her to bring vegetables etc., for the evening meal and he left at about 1.00 PM for his village Rawa for fetching vegetables and at the railway level crossing he noticed that accused Jagtar Singh was driving a motor cycle make Enfield on the pillion of which accused Jarnail Singh was sitting and carrying a gunny bag containing some article. PW31 Jasvir Singh corroborated the said version of PW5 Joginder Singh. It may be that prosecution led evidence to show that Jagtar*

Singh owned motor cycle Enfield which was purchased by him from original owner Amardev and was subsequently sold by him. The testimony of these two witnesses who are related the complainant, however, does not inspire much confidence, because suspicion had already arisen against accused Jagtar Singh, at the time of recording of the FIR on 5.2.2004, on the statement of Balvir Kaur, complainant, but surprisingly the version of these two witnesses regarding the said incident having witnessed by them on 31.1.2004, does not find mention, in the said FIR, nor in the course of investigation, of the said FIR, and even in the writ petitions, also, this version does not find mention. The interested delayed and after though version of these two witnesses regarding the circumstances, therefore, does not inspired much confidence...”

Learned counsel for the petitioner has next argued that the statements of these witnesses were not believed by the trial Court, on the pretext that when the aforesaid petition was filed before this Court, certain allegations, which were made by both these witnesses, while appearing before the trial Court, were not there and some improvements were made. Accordingly, the trial Court acquitted co-accused Jarnail Singh, vide judgment dated 09.12.2010 and this judgment has attained finality, as no appeal was filed by the CBI. It is further submitted that thereafter, the petitioner, when returned back to India, surrendered before the trial Court on 29.11.2017 and since then, he is in custody. It is also submitted that since there are number of witnesses yet to be examined, the trial Court is likely to take long time in final conclusion of the trial.

Learned Standing Counsel for CBI, on the basis of custody certificate, has not disputed that the petitioner is in custody since 29.11.2017

and as on today, he has undergone approximately two years and one month and out of total 58 prosecution witnesses, 12 PWs have been examined. He has also not disputed the fact that no appeal was filed by the CBI, challenging the judgment dated 09.12.2010, vide which co-accused Jarnail Singh was acquitted, however, it is argued that allegations against Jarnail Singh were only of conspiracy and the petitioner is the main accused, against whom there is evidence of last seen.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last more than 02 years; he was initially discharged by the prosecution on 31.05.2005; co-accused Jarnail Singh, who faced full length trial, was acquitted by not believing some part of the statement of complainant Balvir Kaur and another witness Jasvir Singh and also in view of the fact that the petitioner was not in India for considerable long time and on that account, he was declared as proclaimed offender, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail bonds and two sureties of heavy amount, to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

In case, passport of the petitioner is not surrendered, the same will be surrendered before accepting the bail/surety bonds and will remain in custody of the petitioner during the trial.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

20.01.2020

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No