

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

CRM-M-29051-2020 (O&M)

Date of decision: 16.11.2020

Sonu

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Baljeet Beniwal, Advocate for the petitioner.

Mr. K.S. Thakur, AAG, Haryana.

Mr. Kunal Dawar, Advocate for the complainant.

H.S. MADAAN, J. (Oral)

Case taken up through video conferencing.

This 4th petition for regular bail has been filed by petitioner Sonu, aged about 28 years, an accused in FIR No.854 dated 03.11.2017, for offences under Sections 148, 149, 307, 387, 506, 440 IPC and Section 25 of Arms Act, registered with Police Station Mujessar, Faridabad.

The first petition filed by him earlier bearing No.CRM-M-30283-2019 was withdrawn by learned counsel for the petitioner and order in that regard was passed on 24.07.2019. He had brought another petition bearing No.CRM-M-47579-2019 which was dismissed, vide detailed order dated 23.01.2020. The operative part of the said order is being reproduced as under:-

“The incident of indiscriminate firing by criminals

including the present petitioner on innocent persons cannot be taken lightly. During the investigation of case FIR No.549 of 2017, accused Sonu is said to have suffered a disclosure statement admitting his involvement in the present case. A country-made pistol and live cartridge had been recovered from the possession of the present petitioner Sonu. Though it is stated that co-accused Satish has been granted benefit of regular bail but then his case was somewhat different inasmuch as Satish was alleged to have been found in possession of Swift car used in the crime, whereas the present petitioner as per the prosecution story was found in possession of countrymade pistol and cartridge. Such such type of allegations, I find that it would not be proper and appropriate to grant benefit of regular bail to the petitioner. He is shown to have played an active part in the whole episode. There is every possibility of the petitioner trying to tamper with the prosecution evidence and even to abscond, if released on bail. No case for grant of regular bail is made out.”

Now, he has come to this Court again for the fourth time seeking bail.

I have heard learned counsel for the parties besides going through the record.

Learned counsel for the petitioner has pointed out that accused themselves are to be blamed for delaying the trial, since they have been moving successive applications for bail in the trial Court and not ensuring appearance of their counsel in the trial Court and further the proceedings had got delayed on account of outbreak of COVID-19 also.

Learned counsel for the complainant has drawn my attention to paras No.7 and 8 of order dated 09.09.2020, passed by learned

Sessions Judge, Faridabad, dismissing the 9th application for bail moved on behalf of petitioner Sonu. For ready reference, those paras are being reproduced as under:-

“ After receipt of the order of Hon'ble High Court, one prosecution witness appeared on 20.03.2020 but his statement was not recorded due to non-appearance of any of the defence counsels. Thereafter, lock down was declared in the entire country on account of pandemic covid-19, which has been extended from time to time. Restricted hearing in urgent matters only was taking place. Later on, by office order of the District & Sessions Judge, Faridabad, recording of the evidence in those cases has been permitted, wherein the accused is in custody. This is one of such case. Prosecution witnesses were summoned for 07.09.2020. On that date, eight prosecution witnesses appeared but one of the accused, who is on bail, did not appear. Besides, four of the defence counsels were not available. In these circumstances, the present witnesses were to be discharge.

It is clear from the aforesaid circumstances that despite order dated 06.03.2020 of Hon'ble High Court, trial could not proceed either on account of lock down due to pandemic Covid-19 or due to non-availability of the defence counsels. Petitioner cannot be given advantage of this situation so as to seek bail.”

Thus, it comes out that the trial is getting delayed not on account of any lapse on the part of prosecution but due to the non-availability of defence counsel as well as lock down due to pandemic COVID-19, as observed by learned Sessions Judge, Faridabad. Learned State counsel has informed that majority of PWs have since been

examined and statements of only few PWs remained to be got recorded. Thus considering all the facts and circumstances of the case as well as the fact that there has not been any noticeable change in circumstances, since dismissal of earlier petition for bail, no ground is made out for allowing the present petition. The same stands dismissed accordingly. However, while parting with the discussion, the trial Court is directed to take necessary steps to conclude the trial expeditiously. Of course, the accused including the petitioner should ensure the availability of their counsel during the trial and ensure that PWs who are present and examined in-chief are not made to return on account of non-availability of their counsel for cross examination of those PWs.

16.11.2020

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No