IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-2546-2020 (O&M)
Date of decision: 22.02.2021

Gagandeep Singh @ Moor

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Yogesh Goel, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

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ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.192 dated 11.05.2018 under Section 307 IPC and Section 25/27 of Arms Act (Section 302 IPC was added later on), registered at Police Station Basti Jodhewal, District Ludhiana.

Learned counsel for the petitioner submits that the case was initially registered under Section 307 IPC read with Section 25/27 of Arms Act, however, injured Amit Kumar succumbed to the injuries and died on 17.07.2018 i.e. after more than two months and offence under Section 302 IPC was added. It is further submitted that the petitioner was arrested on 28.05.2018 along with co-accused Sukhwant Singh @ Sukha and motorcycle in the name of

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Surinder was recovered. It is also submitted that even as per the investigation, empty shell of .312 bore revolver was recovered from co-accused Sukhwant Singh @ Sukha.

Learned counsel for the petitioner further submits that as per allegations in the FIR, registered at the instance of Rohit Kumar, his brother Amit Kumar received gun shot injuries and was taken to CMC Hospital, where he came to know that Sukhwinder Singh @ Sukha along with two associates, with intention to kill, has inflicted gun shot injuries to his brother Amit Kumar. Learned counsel has referred to the order dated 02.07.2020, wherein noticing the fact that charges were framed way back on 20.11.2018, however, only one PW i.e. Investigating Officer was examined and the Commissioner of Police, Ludhiana was directed to explain the delay. Later on, affidavit of the Commissioner of Police, Ludhiana was filed and in the affidavit, it is explained that the delay has caused either due to non-collection of the accused from the jail or non-appearance of the complainant. Learned counsel has further referred to the orders passed by the trial Court, adjourning the case from time to time as well as subsequent orders passed by this Court, noticing that the complainant is residing in Mumbai and on account of COVID-19 situation, he was not examined.

Learned State counsel has filed the custody certificate dated 20.02.2021 in the Court today and as per this custody certificate, the petitioner is in custody for the last 02 years, 08 months and 21 days and situation with regard to the trial will remain the same, as complainant Rohit Kumar is yet to

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be examined and he has not been produced by the prosecuting agency.

Learned State counsel, on instructions from ASI Gurmukh Singh, submits that though non-bailable warrants have been issued against the complainant, however, he is not appearing before the trial Court and on that account, the trial is delayed.

It is worth noticing that apart from complainant Rohit Kumar, there are other witnesses cited in the report under Section 173 Cr.P.C., however, there is no explanation as to why other witnesses are not examined despite the fact that charges were framed in November, 2018 and the lockdown was put on 23.03.2020.

After hearing learned counsel for the parties, without commenting anything on merits of the case, considering the fact that the petitioner is in long custody of about 02 years and 09 months; only 01 PW has been examined and the trial is moving at a very slow pace, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate, concerned.

[ARVIND SINGH SANGWAN]
JUDGE

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No

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