

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

217+109

CRM-27559 of 2021 in/and
CRM-M-12988 of 2021
Date of Decision : 03.09.2021

Rajbhupinder Singh @ Sewak

..Petitioner

Versus

State of Punjab

...Respondent

(Through video conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Laghuinder Singh Sekhon, Advocate for the petitioner.

Mr. Dhruv Dayal, Sr. DAG, Punjab.

Mr. Navkiran Singh, Advocate for the complainant.

Harsimran Singh Sethi, J. (Oral)

CRM-27559 of 2021

As prayed for, application is allowed.

CRM-M-12988 of 2021

The present is a second petition filed under Section 439 Cr.P.C for the grant of regular bail to the petitioner in FIR No.33 dated 20.04.2017 registered under Sections 302, 307, 427, 148, 149 of the IPC and Sections 25 and 27 of the Arms Act and Sections 3(2) (V) of the Scheduled Castes and Schedules Tribes Act, 1989 at Police Station Jhunir, District Mansa.

This is the second petition for the grant of regular bail to the petitioner as the earlier petition filed by the petitioner seeking the same

relief was disposed of by a Coordinate Bench of this Court while passing order in CRM-M-30111 of 2020 on 02.11.2020. The said order is as under:-

“The case has been taken up for hearing through video conferencing.

CRM-25321-2020

Prayer in the application is for placing on record Additional Annexures in the main case CRM-M-30111-2020. For the reasons mentioned in the application, the same is allowed and Annexures P-9 and P-10 are taken on record.

CRM-M-30111-2020

The petitioner has filed the present (first) petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of Regular Bail in case FIR No. 33 dated 20.04.2017 registered under Sections 148, 302, 307, 427 read with Section 149 of the Indian Penal Code, 1860 and Sections 25 and 27 of the Arms Act, 1959 and under Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 at Police Station Jhunir, District Mansa.

After arguing for some time, learned Counsel for the petitioner has submitted that the petitioner does not want to continue with the present petition and the same may be dismissed as withdrawn at this stage.

Dismissed as withdrawn at this stage.

However, in view of the observations made by Hon'ble Supreme Court in ***Doongar Singh Vs. State of Rajasthan 2018 (1) RCR Criminal 256; State of U.P. Vs. Shambhu Nath Singh and others, 2001 (2) R.C.R. (Criminal) 390; Hussain and another Vs. Union of India 2017(2) RCR Criminal 312*** and ***Thana Singh Vs. Central Bureau of Narcotics 2013(1) R.C.R(Criminal) 861***, the trial Court is directed to expedite the disposal of the case

after easing out the restrictions imposed to prevent the spread of Covid-19 by conducting trial on day to day basis by allocating block of dates for the trial as directed by Hon'ble Supreme Court and by issuing coercive process for securing presence of the witnesses.

In case of non-appearance of prosecution witnesses, the trial Court shall take appropriate action against the concerned prosecution witnesses absenting without any lawful excuse by filing complaint under Section 174 of the Indian Penal Code, 1860 or taking proceedings under Section 350 of the Code of Criminal Procedure, 1973 against them.

A copy of this order be sent to the trial Court concerned for requisite compliance.”

Learned counsel for the petitioner argues that the petitioner is in custody for the last more than four years and, therefore, as the trial is likely to take some time before it concludes, hence, on the basis of the incarceration already suffered by the petitioner, he be granted the benefit of regular bail.

Learned State counsel submits that on the application preferred by the complainant under Section 319 CPC, eight accused, who were earlier found innocent by the police have been summoned to face trial hence, the petitioner may not be granted the benefit of regular bail merely on the basis of the incarceration already suffered by the petitioner by ignoring the allegations against him.

Learned counsel appearing for the complainant submits that this Court in the earlier petition filed by the petitioner for the grant of regular bail while passing order dated 02.11.2020 in CRM-M-30111 of 2020, which has been reproduced hereinbefore, directed that the trial should

be expedited and completed at the earliest, whereas, the order passed by the trial Court summoning the accused on an application preferred under Section 319 CPC, the accused who have been summoned, have approached this Court and have got interim order and on the basis of said interim order, the proceedings of the trial Court became stand still as the trial Court has been directed by this Court to adjourn the case beyond the date fixed by this Court in the said petition therefore, the delay, which has occurred in completing the trial is attributable to the accused and not to the complainant.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The plea of the petitioner for the grant of bail on merits was considered by this Court while passing order in CRM-M-30111 of 2020 on 02.11.2020 but, the Court did not find the petitioner entitled for the grant of benefit of regular bail and only a direction was issued to the trial Court to expedite and complete the trial at the earliest. The circumstances have not changed much since then except the fact that the trial Court has summoned the additional accused while allowing application under Section 319 CPC. The trial is at stand still, as the order summoning the accused while allowing application filed under Section 319 CPC is pending scrutiny before this Court and trial is not progressing because of the interim order passed by this Court on the asking of accused persons. Neither the trial Court nor the complainant is causing delay in finishing the trial rather the same, prima facie, is attributable to the accused, who have been summoned now. Therefore, once, the delay is attributed to the accused, the benefit of the same cannot be given to the accused so as to claim the concession of regular bail by contending that incarceration period is more than four years.

In view of the above, no ground is made out to allow the present petition seeking benefit of regular bail to the petitioner.

Dismissed.

September 03, 2021
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(HARSIMRAN SINGH SETHI)
JUDGE

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