

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(220)

CRM-M-13285-2021

Date of decision:- 27.10.2021

Amrit Pal Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Onkar Rai, Advocate for the petitioner.

Mr. Sarabjit Singh Cheema, AAG, Punjab.

...

SUVIR SEHGAL, J. (ORAL)

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 seeking grant of regular bail to the petitioner in case FIR No.20 dated 24.02.2010 under Sections 382 and 34 of the Indian Penal Code, 1860, registered at Police Station Bilga, District Jalandhar.

As per the case of the prosecution, FIR has been registered on the statement of Manjinder Singh on the allegation that on 01.02.2010, at about 07.45 PM, when he was going on a scooter with his wife and both the daughters, three young men with covered faces, who were armed with datar and sword waylaid them and under threat made them part with cash of

Rs.13,400/-, a mobile phone, earrings and a gold bangle. After snatching the articles, the accused fled away from the spot.

Counsel for the petitioner has contended that there is a delay of 24 days in lodging of the FIR wherein the petitioner has not been named and the allegations are against unknown persons with muffled faces. Counsel submits that the petitioner was granted pre-arrest bail on 14.12.2010 and was regularly appearing before the trial Court, but on account of a miscommunication, he could not appear before the trial Court from January, 2017 onwards and was declared a proclaimed offender by the trial Court vide order dated 03.06.2017 and was arrested on 04.01.2021. Counsel submits that trial against the co-accused has concluded and vide judgment dated 05.06.2017, Annexure P-2, all of them have been exonerated of the charge framed against them as the prosecution could not produce the complainant or his wife as witnesses. Still further, by relying upon the said judgment, he submits that the trial Court found that no test identification parade has been conducted and even some of the articles alleged recovered from the accused have not been taken on sapurdari by the complainant. He submits that though the petitioner is involved in some other cases, but insofar as the present FIR is concerned, he is no longer required for custodial interrogation as challan has been presented and the prosecution evidence is yet to start.

Opposing the petition, learned State counsel, upon instructions from SI, Balwinder Singh, has made a reference to the Custody Certificate of the petitioner to submit that the petitioner is facing trial in 09 cases,

allegations in most of which are almost similar. He submits that as the petitioner had evaded the process of law, he is not entitled to the concession of regular bail. Upon instructions, he further submits that challan has been presented on 02.02.2021, charge has been framed on 04.05.2021, but none out of the ten prosecution witnesses have been examined.

I have considered the rival submissions of learned counsel for the parties.

Keeping in view the above circumstances, custody period of the petitioner and the fact that the trial is at its initial stage, this Court is prima facie of the view that the petitioner would be entitled to be released on bail, during the pendency of the trial. No doubt, the petitioner was declared as a proclaimed offender, but this Court is of the opinion that in view of the situation emerging in the present case, lapse on the part of the petitioner deserves to be condoned.

Without examining the merits or de-merits of the arguments addressed by the counsel for the parties, the petition is allowed. The petitioner, namely, Amrit Pal Singh, is ordered to be released on bail on his furnishing adequate bail/surety bonds to the satisfaction of the Illaqa Magistrate/Duty Magistrate concerned.

It shall be open for the trial Court to impose any condition it deems appropriate to ensure that the petitioner is precluded from committing any default in future. The petitioner shall furnish an affidavit/undertaking before the trial Court to the effect that he shall desist from indulging in any criminal activity in future and in case, he violates the

undertaking, liberty is granted to the prosecution to seek cancellation of the bail.

It is clarified that any observation made hereinabove shall not be construed to be a reflection of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

27.10.2021
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No