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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-18871-2021 (O&M)

Date of Decision: 19.07.2021

Janvi Saini @ Sudesh Saini

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Abhinav Gupta, Advocate,
for the applicant/petitioner.

Mr. B.S. Sewak, Addl. A.G., Punjab.

SUDIP AHLUWALIA, J. (ORAL)

CRM-19194-2021

Applicant/petitioner is permitted to place on record the documents and copies of zimni orders passed by the Ld. Trial Court as Annexures P-12 to P-15.

Application stands disposed off.

CRM-M-18871-2021

This is a petition for regular bail filed on behalf of the petitioner under Section 439 Cr.P.C. in case FIR No.239 dated 13.08.2016, under Sections 307 & 302 (added later on) of the IPC, registered at Police Station Basti Jodhewal, District Ludhiana.

[2]. It has been noted in the previous order dated 12.05.2021 that the petitioner, who is a woman, has remained in detention for almost 4 years and 9 months, since 22.08.2016. It was also noted in the said order, as under:-

“3. Ld. Counsel for the petitioner submits that following the spirit of the decision passed by the

Division Bench of this Court in the case of “Dharampal Vs. State of Haryana”, 2000(1) CLR 74, the petitioner, who is a woman, and were to be convicted and sentenced to suffer imprisonment for life, would have been entitled to be released during pendency of her appeal, if the detention undergone by her was in excess of four years.

4. *Ld. State Counsel from his side submits that the prosecution evidence at one stage had been completed and the matter was posted for defence evidence, which was however, not led. Subsequently, two additional witnesses were got examined from the prosecution side under Section 311 of the Cr.P.C., but their cross-examination could not be done initially due to absence of the petitioner's Counsel in the Ld. Trial Court, and thereafter due to her non-production in the Court.*

5. *Ld. State Counsel further submits that now the matter is fixed for the same purpose in the Ld. Trial Court on 02.06.2021, and he assures that there will be no latches from the State's side in the matter of production of the petitioner, whether physically, or through Video Conferencing, as well as similar availability of the prosecution witnesses for the purpose of their cross-examination.”*

[3]. Thereafter, when the matter came up on 05.07.2021, it transpired that the prosecution had filed yet another application under Section 311 of the Cr.P.C. for examining more prosecution witnesses, even though examination of the petitioner under Section 313 of the Cr.P.C. had been completed almost 3 years back, and therefore the matter is clearly being lingered on account of dilatory tactics motivatedly adopted by the prosecution side.

[4]. Perusal of the zimni orders passed by the Ld. Trial Court on 04.06.2021 (Annexure P-13) and 02.07.2021 (Annexure P-14) go to support

the submission raised on behalf of the petitioner. It is seen from the order passed on 04.05.2021 that in spite of the specific submission of Ld. State Counsel before this Court on 12.05.2021, another application for additional evidence was moved on behalf of the prosecution side. On the subsequent date (02.07.2021), the matter was mechanically adjourned by the Trial Court by noting “*No PW is present today. Remaining unexamined PWs be summoned for said date*”. Now the matter is reported to be fixed in the Ld. Trial Court on 22.07.2021 again for prosecution evidence.

[5]. Irrespective of the merits of this case, it becomes crystal clear that the petitioner is being motivatedly sought to be kept under detention on one pretext or the other by some vested interests, and this Court is not inclined to dwell any further in this regard. Suffice it to say, had the petitioner even being convicted and sentenced to suffer imprisonment for life, she would have been entitled to be released during pendency of her appeal today itself, were such appeal to be filed as held in “***Dharampal Vs. State of Haryana (Supra)***”.

[6]. In such circumstances, this Court is not inclined to grant any further indulgence to the prosecution side to delay the trial to the detriment of the petitioner's liberty.

[7]. The petitioner is, therefore, ordered to be forthwith released on bail to the satisfaction of Ld. Trial Court/Duty Magistrate concerned, after which the prosecution can proceed on in accordance with law.

[8]. Disposed off.

19.07.2021*Bhumika***(SUDIP AHLUWALIA)
JUDGE**

1. Whether speaking/reasoned: Yes/No
2. Whether reportable: Yes/No