

In virtual Court

CRM-M-20992-2021

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-20992-2021 (O&M)
Date of decision: 12.07.2021

Sandeep @ Sachin

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. B.S. Makar, Advocate
for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.275 dated 02.09.2016 under Sections 186, 307, 333, 353, 120-B, 34 IPC and Section 25/27/54/59 of Arms Act, registered at Police Station City Mandi Dabwali, District Sirsa.

Learned counsel for the petitioner, at the very outset, submits that one co-accused of the petitioner namely Baldev @ Balla had been granted the concession of regular bail vide order dated 24.09.2018 passed in CRM-M-14931-2018 and one another co-accused Parveen @ Naveen had also been granted the concession of regular bail vide order dated 10.12.2019 passed in CRM-M-37575-2019, by passing the following order: -

“...Counsel for the petitioner has argued that the petitioner is in custody since 28.09.2016 and a period of 03 years has already been passed. Counsel for the petitioner has relied upon the order dated 24.09.2018 passed in CRM-M No.14931 of 2018, in which while granting regular bail to the co-accused namely Baldev @ Balla, the following order was passed by this Court:-

“....Heard.

Reply on behalf of State filed, which is taken on record.

It appears to be a routine reply without any serious efforts or suggestion to ensure that undertrials are produced in Courts on date fixed either in person or through video conferencing. It appears that State is not serious in ensuring the production of undertrials in Court and has not initiated steps to set up enough infrastructure in the Jails for production of the undertrials through video conferencing and one video conferencing set in every jail is not suffice for production of several undertrials in different Courts through video conferencing.

Learned State counsel submits that necessary steps are being taken up in this regard by the State in consultation with Director General of Police (Prison).

Petitioner in this case was arrested on 28.09.2016 by

issuing production warrants. Till date, charge has not been framed as he was not produced in Court for the purpose of initiation of trial. Keeping in view the fact that a period of almost 2 years has elapsed and the charge has not been framed till date and in the event of charge being framed, conclusion of trial will take considerably long time, the present petition is allowed. Petitioner Baldev @ Balla is ordered to be released on regular bail on furnishing bail bond and surety bond to the satisfaction of concerned Chief Judicial Magistrate/Duty Magistrate, subject to following terms:-

a. The petitioner shall comply with the conditions mentioned in Section 437(3) Cr.P.C.

b. In the event of his absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn. The trial Court shall be competent to cancel his bail bond and surety bond and proceed to procure his presence in accordance with law. In that eventuality the petitioner shall have to apply for bail afresh.

c. He shall not leave the country without prior permission of the Court.”

Counsel for the petitioner has further submitted that even one more year has been passed and till date, no witness of the

prosecution has been examined. It is also submitted that the petitioner is involved in 04 other FIRs out of which in FIR Nos.74 and 108, he already stands acquitted and in 02 other FIRs, he is on bail.

Counsel for the State, on instructions from SI Ramesh, has not disputed the factual position but opposed the prayer for bail. It is also not disputed that the petitioner was arrested on 28.09.2016 and despite the a lapse of 03 years, no PW has been examined so far.

The only explanation given is that since the accused are lodged in different jails, the same could not be done.

A perusal of the order dated 24.09.2018 granting bail to the co-accused Baldev @ Balla, it is noticed that despite enough infrastructure in jail for conducting the trial through video conferencing, the trial is not proceeding further. The said order was passed on 24.09.2018 and even after more than 01 year, still the case is at the same stage and the trial is not proceeding further.”

Learned counsel for the petitioner further submits that as per allegations in the FIR, the petitioner along with co-accused have fired on an undertrial Chotu Ram Bhaat, who sustained six injuries and one police official Dalbir Singh and two other persons namely Gurjant Singh and Ashu also suffered injuries. It is further submitted that FIR was registered on 02.09.2016

and on the same day, the petitioner was arrested in FIR No.469 dated 02.09.2016 under Sections 307, 279 IPC and Section 25 of Arms Act, registered at Police Station Nokha, District Bikaner (Rajasthan). Thereafter, on production warrants, the petitioner was arrested in the present FIR on 28.09.2016 and since then, he is in custody. It is also submitted that primary evidence against all the accused is their own disclosure statements, as at the first instance, when Gobind Singh @ Gobinda was arrested, he made a disclosure statement that he along with co-accused Aarju @ Gogi, petitioner Sachin @ Sandeep had gone to a village, where co-accused Baldev Bishnoi was presented and in conspiracy with each other, they planned for murder of Chotu Ram Bhaat and as per the planning, Gobind Singh @ Gobinda was to shoot him, whereas the petitioner and co-accused Aarju were to give him cover and Baldev @ Balla was to drive the car.

Short reply/status report by way of affidavit of Deputy Superintendent of Police, Dabwali has been filed in the Court today, in which the facts, as stated by the petitioner, are not disputed. It is also not disputed that FIR in Sirsa as well as in Bikaner were registered on the same day, wherein the petitioner was allegedly arrested in Bikaner. It is further stated that the petitioner is involved in six other FIRs under IPC, however, all the FIRs are prior to registration of this case. It is also stated that charges were framed on 02.03.2020 and case is now fixed for recording the prosecution evidence.

Learned State counsel, on instructions from the Investigating Officer, has submitted that next date before the trial Court is 05.08.2021 and till

In virtual Court

CRM-M-20992-2021

-6-

date, no prosecution witness has been examined.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering the fact that in the affidavit of DSP, it is nowhere stated that any Test Identification Parade was conducted and also in view of the fact that the petitioner was arrested from Bikaner on the same day of the incident in another FIR registered at Sirsa and considering the long custody of the petitioner i.e. about 04 years and 09 months and the fact that no prosecution witness has been examined so far, 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/Illaq Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

12.07.2021

vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No