

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-40335-2020 (O&M)
Date of decision: 10.02.2021

Rajbir Singh

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. A.S. Lamba, Advocate
for the petitioner.

Mr. Deepak Kumar Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for setting aside the order dated 09.07.2020 passed by the Chief Judicial Magistrate, Hisar, vide which the application filed by the petitioner under Section 437 (6) Cr.P.C. was dismissed.

Learned counsel for the petitioner relies upon the order dated 02.02.2021 passed in CRM-M-3467-2021, which reads as under: -

“A perusal of the record shows that one of the co-accused, namely Sandeep Khayalia, has already been granted concession of regular bail, vide order dated 22.12.2020 passed by this Court in

CRM-M-11146-2020 (record of this case was summoned). The operative part of the order reads as under:

“Counsel for the petitioner submits that as per the allegations in the FIR, registered at the instance of one Sandeep Bamal, the accused persons including the petitioner have taken a loan for TATA Zest vehicle in the name of the complainant by misusing the photocopy of Aadhar Card and PAN Card of the complainant whereas the complainant neither applied for any loan from TATA Motors Finance nor even signed any documents in this regard. It is further submitted that the petitioner is in custody since 19.09.2019 i.e. a period of more than 01 year and 03 months.

Counsel for the petitioner has further argued that even the incomplete challan was presented on 30.12.2019 as the FSL report was not submitted. It is also submitted that even today the said report is still awaited and the charges were framed on 03.01.2020. Counsel for the petitioner has further submitted that the petitioner was on default bail and the matter is triable by the Court of Magistrate and it will take long time in conclusion of the trial as out of 19 PWs, only 01 PW has been examined.

Learned State counsel has filed the affidavit of the Assistant Superintendent of Police, Hisar, in which it is stated that challan has been presented and the FSL report is still awaited. Counsel for the State has further submitted that charges stands framed against the accused persons. It is also submitted that the petitioner is involved in number of other cases. He also argued that some of the accused persons who were arrested in the year 2003-04, stands acquitted whereas the petitioner is facing the trial in 04

cases under Sections 323 and 307 IPC.”

As per allegations in the FIR, the name of the petitioner has surfaced on the disclosure of an accused.

A perusal of the order passed by the Additional Sessions Judge, dated 26.12.2020, reveals that bail application of the petitioner was dismissed primarily on the ground that he is involved in some more cases, out of which, he stands acquitted in four cases and convicted in three cases, wherein his appeal is pending.

Be whatsoever, considering the fact that the name of the petitioner surfaced in the disclosure of a co-accused; one of the co-accused has already been granted concession of regular bail as noticed above; petitioner is in long custody since 27.11.2019 and also in view of the fact that offences are triable by the Court of a Magistrate and it will take some time in conclusion of trial, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Ilqa Magistrate, concerned.”

Learned counsel for the petitioner submits that the petitioner is in custody since 06.12.2019; he is not involved in any other case and despite the offences being triable by the Court of Magistrate; investigation has not been concluded within a period of 60 days after first date of recording the evidence i.e. 02.01.2020 and the petitioner may be granted the concession of bail under Section 437 (6) Cr.P.C.

Learned State counsel has not disputed the factual position, however, submits that out of total 21 prosecution witnesses, only 01 PW has been examined so far.

After hearing learned counsel for the parties and considering the fact that the petitioner is in long custody and for a long time, due to COVID-19 situation, trial is not proceeding further, this petition is allowed. The order dated 09.07.2020 passed by the Chief Judicial Magistrate, Hisar is set aside and the petitioner is granted bail under Section 437 (6) Cr.P.C.

[ARVIND SINGH SANGWAN]
JUDGE

10.02.2021
vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No