

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRM-M-35551-2019(O&M)
Date of decision: 24.02.2021**

Okeke Anselm Arinze

...Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Salil Dev Singh Bali, Advocate for the petitioner.

Mr. Ramandeep Sandhu, Sr. DAG Punjab.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

The petitioner has filed this petition under Section 439 of Cr.P.C. for grant of regular bail in case FIR No. 51 dated 30.09.2018 registered under Sections 21-61-85 of NDPS Act and Section 14 of the Foreigners Act, 1946, at Police Station STF Phase-4, SAS Nagar, District SAS Nagar.

Learned counsel for the petitioner states that the petitioner has been in custody for the last more than 2 years and 4 months and no other case is pending against him. He also draws the attention of this Court towards the order dated 27.11.2020 passed by a Coordinate Bench, which reads as

under:-

“1. Ld. Counsel for the petitioner has sent up a copy of the order passed by the Ld. Trial Court on 17.11.2020, on perusal of which, it transpires that examination of the petitioner/accused under Section 313 of the Cr.P.C. is still to be done. To that extent, the submission made by Mr. B.S. Sewak, Additional Advocate General, Punjab before this Court on the last date appears to be erroneous. It further transpires that on the last date in Ld. Trial Court examination under Section 313 of the Cr.P.C. was not done because the petitioner/accused was not produced for that purpose by the Jail Authorities even by way of Video Conferencing.

2. Faced with this, Ld. State counsel submits that one opportunity may be granted to the State to do the needful and he shall ensure that the petitioner/accused is produced before the Ld. Trial Court either physically or at least by way of Video Conferencing to ensure that the matter does not get adjourned for the same purpose for the next date.

3. In view of this submission made on behalf of the State, in the interest of justice, hearing in the matter is adjourned to 09.12.2020.

4. It is however made clear that in the event of petitioner not being produced for his examination under Section 313 of the Cr.P.C., an appropriate logical consequence on the present bail petition is liable to follow in view thereof. ”

He further states that on 02.12.2020, the statement of accused under Section 313 Cr.P.C. was recorded but thereafter even on the production warrant, the accused was not produced before the Court. No defence evidence was present on 08.02.2021. The case is now fixed for 16.03.2021.

Copy of custody certificate by way of affidavit dated 23.02.2021 of the Deputy Superintendent, New District Jail, Nabha, submitted by the learned State counsel through email, is taken on record.

Learned State counsel points out that the prosecution evidence has already been recorded, even the statement under Section 313 Cr.P.C has been recorded and now the case is fixed for defence evidence.

I have heard the learned counsel for the parties.

In view of the above, the present petition is disposed of with a direction to the trial Court to make an endeavour to proceed with the case keeping in mind the observations made in the aforesaid order dated 27.11.2020 passed by the Coordinate Bench.

However, the petitioner will be at liberty to move an application at an appropriate stage, if so requires.

(HARNARESH SINGH GILL)
JUDGE

24.02.2021

Mangal Singh

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No