

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

CRM-M-37690-2019 (O&M)

Date of decision: 26.02.2021

Gaurav Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Ranjan Lakhanpal, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 110 dated 29.05.2017, registered under Section 18/19/20 of Unlawful Activity Act and Section 25/54/59 of the Arms Act at Police Station Phase-1, Mohali.

Learned counsel for the petitioner relies upon order dated 19.11.2020 passed in CRM-M-36615-2020, vide which co-accused Parminder Singh has been granted concession of regular bail by this Court.

The operative part of the order reads as under:

“Co-accused Ramandeep Singh @ Sunny has been granted regular bail vide order dated 08.10.2020 passed in CRM-M No.28701 of 2020. The aforesaid accused was granted bail despite his unsuccessful attempts on previous occasions when his bail was rejected on 03.04.2018, 16.01.2019, 06.09.2019. In the order dated 06.09.2019 passed in CRM-M No.35627 of 2019, the trial Court was directed to expedite the trial and try to

conclude the same within a reasonable time by giving short adjournments. Thereafter, Amritpal Kaur @ Amrita filed CRM-M No.33656 of 2019 in which the High Court directed the SSP, SAS Nagar, Mohali to ensure that all the prosecution witnesses appear before the trial Court within a period of 30 days from 12.02.2020.

Perusal of the aforesaid order would show that only two prosecution witnesses were left to be examined on that date and the learned State counsel on instructions from SHO Manphool Singh undertook that the entire prosecution evidence would be concluded within a period of one month from that date. In that situation, the Co-ordinate Bench directed the SSP, Mohali to ensure that all the prosecution witnesses appear before the trial Court within a period of 30 days from 12.02.2020. Thereafter, CRM-M No.28701 of 2020 came to be filed by co-accused Ramandeep Singh @ Sunny. The first order was passed on 24.09.2020, thereby directing the State to place on record all the interlocutory orders passed by the trial Court from 12.02.2020 onwards till 22.03.2020.

In compliance of the aforesaid order, necessary interlocutory orders were placed on record. After perusing the interlocutory orders, this Court granted regular bail to coaccused Ramandeep Singh @ Sunny on the premise that the compliance of order dated 12.02.2020 passed in CRM-M No.33656 of 2019 was not made.

Perusal of order dated 12.02.2020 passed by the trial Court would show that DSP Gurvinder Singh was examined-in-chief partly and the case was adjourned to 19.02.2020 for his further examination-in-chief. Summons issued to PW Surjit Singh were received back duly served, but he did not appear in the Court. Bailable

warrants were issued against three prosecution witnesses namely Surjit Singh, Parveen Arora and Ashutosh Kalia. On 19.02.2020, two prosecution witnesses were examined, but DSP Gurvinder Singh could not be examined as the Court time was over and the witness was bound down for 26.02.2020 i.e. the date on which he was examined-in-chief partly and for further examination-in-chief, the case was adjourned to 04.03.2020. On 04.03.2020, the aforesaid DSP was examined-in-chief partly and for further examination-in-chief, the case was adjourned to 18.03.2020.

The Court on the basis of letter dated 17.03.2020 issued by the High Court did not treat the case to be an urgent case and adjourned the case for 01.04.2020 for further examination of PW DSP Gurvinder Singh. Thereafter, no proceedings were undertaken by the trial Court.

Petitioner was arrested on 04.06.2017. One 9 mm pistol and two cartridges were recovered from him. In different criminal petitions, Co-accused Ramandeep Singh @ Sunny and Jarnail Singh @ Kala have been granted regular bail by this Court.

The factual position of the case could not be disputed by learned State counsel on instructions from ASI Jaswinder Singh.

Looking to the aforesaid facts and situation arising out due to COVID-19 pandemic and without adverting to the merits of the case, I deem it appropriate to enlarge the petitioner on regular bail.

In view of above, petition is allowed. Petitioner is ordered to be released on regular bail, subject to his furnishing heavy bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.”

Learned counsel for the petitioner further submits that apart from aforesaid co-accused, vide orders dated 16.11.2020 & 08.10.2020 passed in CRM-M-36767 & 28701-2020, respectively, co-accused Jarnail Singh @ Kala and Ramandeep Singh @ Sunny have also been granted concession of regular bail by this Court.

Learned counsel for the petitioner further submits that the position regarding examination of DSP still remains the same.

Learned State counsel, on the basis of the affidavit of SSP, S.A.S. Nagar (Mohali), could not dispute the factual position.

Learned State counsel, on instructions from ASI Kuldeep Singh, submits that petitioner was arrested on 15.06.2017 and since then, he is in judicial custody and he is not involved in any other case.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the fact that other co-accused have already been granted concession of regular bail as noticed above and the petitioner is in judicial custody for the last about 03 years and 09 months and the trial is still likely to take some time to conclude, 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/Illaq Magistrate, concerned.

26.02.2021

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No