

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

Criminal Writ Petition No.1743 of 2020(O&M)

Date of Decision: July 11, 2022

Satish Kumar

...Petitioner

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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Present: - Mr.Naresh Kumar Kohli, Advocate for the petitioner.

Mr.Arvind Seth, Advocate for respondent – UOI.

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HARINDER SINGH SIDHU, J.

The present petition has been filed under Article 226 of the Constitution of India, for issuing writ in the nature of certiorari for quashing the order dated 15.05.2019 (Annexure P-2) passed by the Armed Forces Tribunal, Chandigarh Bench, Chandigarh, whereby the application of the petitioner for bail/suspension of sentence has been dismissed.

Learned counsel for the petitioner has submitted that the actual detention of the petitioner is 08 years and 05 months. He submits that in view of the custody period of the petitioner, he may be granted the benefit of suspension of sentence. He states that it has been held by Hon'ble Supreme Court that if the appeal is not decided within a reasonable time, the convict is entitled to be released on bail. Not releasing on bail in such circumstances would be a violation of rights under Article 21 of the Constitution. He relies on the decision of the Hon'ble Supreme Court in **Balkrishna Ram Vs. Union of India and another, 2020(1) SCT 576** to contend that the present petition would be maintainable before this Court.

Mr.Arvind Seth, Ld. Standing Counsel for Union of India has contended that the present petition is not maintainable. He contends that as per Section 30 of the Armed Forces Tribunal Act, 2007, an appeal lies only to the Hon'ble Supreme Court against the final decision or order of the Tribunal. He further contends that the petitioner is guilty of having committed a heinous crime i.e. of intentionally causing the death of Subedar Rajender Kumar by firing five bullets from his service weapon – AK47 Rifle. He further contends that the petitioner has made no request before the Tribunal to get his appeal finally disposed of. He states that the Armed Forces Tribunal, Chandigarh Branch, is operational and the matters are being heard. If a direction is issued, the appeal can be disposed of within a reasonable time.

In view of the facts and circumstances of the present case, particularly, the custody of the petitioner, this petition is disposed of with a request to the Armed Forces Tribunal, Chandigarh Branch, to decide the appeal of the petitioner as expeditiously as possible and in any case within a period of three months from today.

If the appeal of the petitioner is not decided within three months from today, it would be open to the petitioner to approach this Court again for seeking suspension of sentence.

July 11, 2022

(HARINDER SINGH SIDHU)
JUDGE

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No