

101 CRM-M-13002-2017 (O&M) and other connected cases -1-

101-1 CRM-M-13002-2017 (O&M)

Balwinder Singh @ Gora vs. State of Punjab and others

101-2 CRM-M-38558-2017 (O&M)

Balwinder Singh @ Gora vs. State of Punjab and others

**101-3 CRM-37002-2019 in
CRA-S-2239-2019**

Balwinder Singh @ Gora vs. State of Punjab and others

Present: Mr. Nakul Sharma, Advocate,
for the petitioner.

Mr. P.S. Bajwa, Addl. A.G., Punjab.

Mr. S.S. Sidhu, Advocate,
for respondent no. 3 (Inspector Ranjit Singh).

Mr. Kamaldip Singh Sidhu, Advocate,
for respondent no. 4 (ASI Raman Kumar).

Mr. Abhishek Kumar, Advocate, for
Mr. Dhawaljeet Dutta, Advocate,
for respondent no. 5 (ASI Balwinder Singh).

Case heard via video conferencing.

CRM-M-38558-2017

This petition has been filed under the provisions of Section 439 of the Cr.P.C., for grant of 'regular bail' to the petitioner in case FIR No. 18, dated 19.02.2016, registered at Police Station Cantt. District Ferozepur, for the alleged commission of offences punishable under the provisions of Sections 21/61/85 of the NDPS Act, 1985.

Actually, it seems that this petition has been listed again and again with it having been rendered infructuous with effect from the date that the petitioner was convicted by the trial court for the commission of an offence punishable under the provisions of Section 21 of the NDPS Act, 1985, on 23.07.2019.

Somehow, it has continued to be listed along with CRM-M-13002-2017 and thereafter also CRA-S-2239-2019 (the appeal filed after his conviction), whereas there is no real need to do so.

Consequently, this petition is disposed of as having been rendered infructuous.

CRM-M-13002-2017

This petition was filed prior to CRM-M-38558-2017, it being one seeking a direction that the petitioner be released on bail in case he was sought to be arrested in the context of the FIR in question, under the provisions of Section 438 of the Cr.P.C.

Even though that relief had been declined on the first date that the petition came up for hearing, i.e. 21.04.2017, yet it has remained pending because notice was issued to the Senior Superintendent of Police, Ferozepur, on that date itself, as to why proceedings under the provisions of the Contempt of Courts Act, 1971, be not initiated against him for violation of the order of this court dated 03.08.2016, passed in CRM-M-21666-2016. It is because of that that this petition has remained pending for the past almost 05 years now, with various detailed orders passed from time to time and four more persons impleaded as respondents thereafter, other than the State of Punjab, with similar notices issued to them.

The said persons are:-

- (i) Ravinder Kumar Bakshi, SSP (respondent no. 2);
- (ii) Inspector Ranjit Singh (respondent no. 3);
- (iii) ASI Raman Kumar (respondent no. 4) and
- (iv) ASI Balwinder Singh (respondent no. 5)

It is to be noticed that even in the memo of parties it is stated that Ravinder Kumar Bakshi was impleaded as respondent no. 2, being the SSP who was in office as such on the date that the order dated 03.08.2016 was passed by this court (coordinate Bench).

The SSP who was in office at the time that the trial court had directed the call details records to be preserved, as were however not preserved, is stated to have been Mr. Manvinder Singh, who unfortunately died subsequently.

It has also been pointed out by learned counsel for the petitioner that thereafter another order of the trial court, dated 04.01.2017, also to the same effect, i.e. for production of the call detail records of the police party as is stated to have apprehended the petitioner at a particular place and at a particular time, was not complied with and that at that stage the SSP, Ferozepur, was one Sh. Racchpal Singh, PPS. However, he very fairly submits that notice for contempt of the said order of the trial court not having been issued to him within one year of the said order having been passed, possibly now it would be beyond limitation to issue such notice to him.

He has also pointed out that as a counter to all contentions raised on behalf of all respondents, he has filed written arguments dated 11.01.2022, diarised by the Registry of this court, at serial no. 1071. The said

written arguments are ordered to be taken on record as a counter to the contentions raised on behalf of the respondents in their pleadings.

For the matter to be considered in terms of the pleadings and the arguments raised based thereupon, adjourned to 01.02.2022.

To be shown in the urgent motion list and to be taken up as the first case after lunch.

Though of course CRM-M-38558-2017 has been disposed of today as having been rendered infructuous, the case file be still put up on that date just to ensure that no order earlier passed (as may be pointed to by learned counsel on both sides), is missed out.

CRM-37002-2019 in CRA-S-2239-2019

Vide this application, the applicant (appellant in the accompanying appeal), seeks that the sentence of 10 years imposed upon him by the trial court after his conviction for the commission of an offence punishable under the provisions of Section 21 (c) of the NDPS, Act, 1985, be suspended during the pendency of the appeal, which was admitted to regular hearing by this court on 17.08.2019.

Notice in the application.

On the asking of the court, Mr. P.S. Bajwa, Addl. A.G., Punjab, accepts notice on behalf of the respondent-State.

A copy of the application be emailed to learned State counsel by counsel for the applicant-appellant.

Adjourned to 01.02.2022.

The State would file any reply that it wishes to as regards suspension of sentence, before the next date of hearing.

A photocopy of this order be placed on the file of the other connected cases.

January 13, 2022
nitin

(AMOL RATTAN SINGH)
JUDGE