

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

CRM-M-24411-2022 (O&M)

Date of decision : 08.12.2022

RANBIR SINGH

....Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

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

Mr. Ashish Yadav, Addl. A.G., Haryana.

PANKAJ JAIN, J. (ORAL)

CRM-20670-2022

Allowed as prayed for.

CRM-M-24411-2022

Present petition has been filed under Section 482 Cr.P.C. Impugning order dated 18th of May, 2022 passed by Revisional Court whereby order dated 21st of January, 2022 passed by the Trial Court dismissing the application filed by the petitioner under Section 437(6) Cr.P.C. has been upheld.

2. Reply by way of affidavit of Kanwaljeet Singh HPS, Deputy Superintendent of Police, Yamuna Nagar along with Annexures R-1 has been filed on behalf of respondent-State, today in Court. The same is taken on record.

3. Petitioner is facing trial in FIR No.386 dated 7th of October, 2020 registered for the offence punishable under Sections 420, 467, 468, 471 and 120-B IPC, at Police Station Farakpur, District Yamuna Nagar and is in custody since 17th of February, 2021. After the trial could not be concluded within 60 days, the petitioner filed an application seeking bail by invoking Section 437(6) Cr.P.C. The same was dismissed by the Trial Court holding that owing to Covid-19 Pandemic there was a handicap in concluding the trial within 60 days and the allegations against the petitioner being serious in nature, he was not entitled for relief under Section 437(6) Cr.P.C. Revision filed by the petitioner also stands dismissed vide order dated 18th of May, 2022 after the Revisional Court observed that the order passed by the Trial Court dated 21st of January, 2022 does not suffer from any infirmity to warrant interference in the revisional jurisdiction.

4. Ld. Counsel for the petitioner has argued that from the bare perusal of the provisions contained in Section 437(6) Cr.P.C., it is evident that the mandate of the legislature is that once the trial could not be concluded within the prescribed period, the person shall be released on bail subject to the exception that the Magistrate may direct otherwise but for the reasons to be recorded in writing. His contention is that though the Magistrate may be right in recording the reasons for delay in trial but the reason recorded for denial of bail under Section 437(6) Cr.P.C. i.e. 'the seriousness of the allegations' cannot be sustained. In support of his

contention he has relied upon the orders passed by this Court in **CRM-M-29702-2018 - Vinod Kumar vs. State of Haryana**, on 19th of December, 2018 and **CRM-M-18492-2022 – Raman Kumar vs. State of Punjab**, on 17th of August, 2022 as also order passed by Orissa High Court in **BLAPL No.5486 of 2020 titled as Brahmananda @ Ankit Kumar Barik vs. State of Odisha** on 7th of January, 2021.

5. Per contra, Ld. State Counsel submits that no infirmity could be pointed out by counsel for the petitioner in the impugned order. Magistrate as per the mandate of the law has recorded reasons in writing to decline the bail to the petitioner and the delay in trial was beyond the control of the Court as well as the prosecution and, thus, the present petition cannot be maintained. He further submits that the allegations *qua* the petitioner are serious in nature wherein on the basis of forged Will he has duped the complainant and further sold the property in question for a valuable consideration.

6. I have heard Counsel for the parties and have gone through the records of the case.

7. In the considered opinion of this Court even if Covid-19 is held to be a valid reason for delay in trial the effect thereof cannot go beyond December, 2021. Admittedly, the trial could not be concluded despite passing of full year of 2022. As per the instructions of the State Counsel only 7 out of 22 cited witnesses could be examined so far. Thus, even if 1st

of January, 2022 is taken to be the date of commencement of trial despite that petitioner shall be entitled for relief under Section 437(6) Cr.P.C.

8. In view of the reasons recorded hereinabove, present petition is allowed. Impugned order dated 18th of May, 2022 passed by Ld. Additional Sessions Judge, Yamuna Nagar and that dated 21st of January, 2022 passed by Ld. Judicial Magistrate 1st Class, Jagadhari, are hereby quashed.

9. Petitioner is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned, subject to the conditions as enumerated under Sections 437(6) Cr.P.C.

December 08, 2022
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No