

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

CRM-M No.24187 of 2020 (O&M)
Date of decision: April 26, 2022

Jagdish Singh alias Bhola

....Petitioner

Versus

Union of India

....Respondent

**CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Vinod Ghai, Senior Advocate
with Ms. Kanika Ahuja, Advocate
for the petitioner.

Mr. Sanjay Vashisth, Senior Panel Counsel
for respondent-Union of India.

AUGUSTINE GEORGE MASIH, J.

This petition has been preferred under Section 45 of the Prevention of Money Laundering Act, 2002 (hereinafter referred to as 'the PML Act'), read with Section 439 of the Code of Criminal Procedure (hereinafter referred to as 'the Cr.P.C. '), for grant of regular bail to the petitioner in complaint No.ECIR/02/JLZO/2013.

2. It is the contention of learned senior counsel for the petitioner that the petitioner was arrested on 23.01.2014 and is in custody for more than seven years. He contends that he had been convicted in three cases as per the custody certificate which has been submitted by the counsel for the State. His submissions is that the other co-accused of the petitioner have been granted the benefit of bail, whereas the similar benefit has not been granted to the petitioner on the assumption that he is the main accused. Petitioner has been falsely implicated in the case. Property of the petitioner is already attached and there is no possibility of the petitioner fleeing the country. The prosecution having led its evidence has not been able to make out a case against the petitioner and, therefore, the benefit of bail is required to be given to the petitioner. Referring to the zimni orders,

which have been passed by the Court below, learned senior counsel had asserted that the prosecution has taken all this time while leading its evidence. No fault can be attributed to the petitioner as he has been in custody since his arrest. He cannot be penalized for the delay on the part of the prosecution as the prosecution was unable to conclude its evidence. Referring to Section 436-A of the Cr.P.C., counsel has contended that by the time the prosecution evidence had concluded, the petitioner was in custody for more than five years, which would be more than half of the maximum punishment which could be imposed upon the petitioner for the offence for which he is facing trial and, therefore, he be granted the benefit of bail.

3. Counsel for the National Investigating Agency (hereinafter referred to as 'the NIA'), on the other hand, has opposed the prayer of the petitioner by contending that he is already a convict in three cases and the total quantum of punishment in these three cases would come to 24 years of imprisonment. His submission is that the order dated 05.08.2015 passed in CRM-M No.20171 of 2015 vide which the co-accused of the petitioner namely Varinder Singh alias Raja was initially granted bail by the High Court was reversed by the Hon'ble Supreme Court vide order dated 21.07.2017 passed in Criminal Appeal No.1223 of 2017 (arising out of SLP (Crl.) No.5647 of 2016). According to the said order, Varinder Singh alias Raja was required to surrender back but he did not do so and has been declared a proclaimed offender vide order dated 12.03.2018 (Annexure R-7). Similarly, another co-accused Anoop Singh Kahlon has also misused the concession of bail granted by the Special Court and fled the country. Non-bailable warrants have been issued against this

co-accused. Counsel contends that there is every likelihood that in case the petitioner is also released on bail, he would abscond delaying the process of the prosecution, especially when the prosecution evidence has come to an end and the case is fixed for defence evidence and now which is being delayed by the accused themselves intentionally to avoid conviction. That apart, counsel for the NIA has contended that the petitioner is the kingpin of the large scale drug racket operating in the State of Punjab having national and international ramifications of enormous proportion. Petitioner himself has admitted in his statements recorded under Section 50 of the PML Act that he was indulging in drug trafficking. Extensive evidence has been led by the prosecution to establish that the petitioner had been engaging in concealment, possession and acquisition of the proceeds of crime in his name as also in the name of his family members. These acquired proceeds of crime from drug trafficking and money laundering had led to the purchase of various properties which have come to light in his name as also in the names of his family members. Huge amount of cash has also been recovered apart from recovery of drugs. Counsel has submitted that it is now for the defence to conclude its evidence leading to the culmination of the trial as early as possible. The prosecution cannot be blamed for the delay, if any. He, therefore, prays for dismissal of the petition in hand.

4. We have heard the counsel for the parties and with their assistance, have gone through the records of the case but do not find ourselves in a position to accept the contentions as have been raised by learned senior counsel for the petitioner.

5. The prosecution evidence stood closed on 12.03.2019.

Thereafter delay, if any, is on the part of the defence, which has failed to conclude its evidence. Benefit of Section 436-A of Cr.P.C. can only be claimed by a person, who is in extended custody not because of his own fault or of the fault of co-accused but because of the non-conclusion of evidence by the prosecution. This is not the position in the present case as the prosecution has concluded its evidence in the case and the ball is in the court of the defence to conclude its evidence so that the trial Court can proceed to give its judgment. The allegations against the petitioner are quite serious but we do not want to comment thereon at this stage in the light of the fact that the prosecution evidence stands concluded lest any observation made by us may affect the ultimate judgment which is to be pronounced by the trial Court after the evidence of the parties is concluded.

6. We do not find any ground to accept the prayer made in this petition and, therefore, dismiss the same, however, keeping in view the custody period of the petitioner, we hope and expect that the defence would not waste time and make an effort to conclude its evidence at the earliest enabling the Court to pronounce its judgment.

7. In view of the above, the present petition for grant of regular bail stands dismissed.

8. In the light of the dismissal of the petition, CRM No.20776 of 2020 also stands disposed of.

(AUGUSTINE GEORGE MASIH)
JUDGE

April 26, 2022
Puneet

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned: Yes

Whether reportable: No