

202 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-30196-2022
Date of Decision: 16.08.2022

RAGHBIR SINGH @ SONU
V/S
STATE OF PUNJAB
...Petitioner
...Respondent

CORAM: HON’BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Karanjeet Singh Brar, Advocate
for the petitioner.

Mr. Ajay Pal Singh Gill, DAG Punjab.

JAGMOHAN BANSAL J. (Oral)

The petitioner, through instant petition under Section 439 Cr.P.C., after dismissal of petition by the Sessions Court, is seeking regular bail in FIR No. 149 dated 30.07.2019 (Annexure P-1). Details of the FIR viz-a-viz the petitioner, are as under:-

1	FIR Number and Date	149 dated 30.07.2019
2	Under Sections	379B of IPC
3	Police Station	City-I, Abohar, District Fazilka
4	Custody period, if any	About 6 months
5	Maximum sentence prescribed	14 years
'6	Whether named in any other FIR or Criminal Complaint, if yes, detail thereof	Yes, FIR No. 106 dated 01.08.2019, u/S 379 & 411 IPC
'7	Particulars of the Petitioner: i) Permanent address ii) Present address iii) Occupation iv) Marital Status v) Age vi) Children	village Banwala Hanwanta, Tehsil and Distt. Fazilka -do- Labourer Married 45 years 2

The petitioner was arrested in the aforestated FIR on 20.08.2019. The petitioner was released on bail on 24.10.2019 in terms of provisions of Section 167(2) of Cr.P.C., on account of non-filing of police report/challan, under Section 173 Cr.P.C. On account of non-appearance before the learned trial Court, the petitioner was declared P.O. and his bail bonds were cancelled and the petitioner was arrested second time on 03.04.2022 and since then, he is in custody.

Learned counsel for the petitioner contends that the petitioner is a labourer and he has been falsely implicated in this FIR as well as another FIR No. 106 dated 01.08.2019 registered under Sections 379 and 411 IPC, at Police Station City Fazilka. He further contends that petitioner is on bail in aforestated second FIR No. 106 dated 01.08.2019.

Mr. Ajay Pal Singh Gill, DAG Punjab contends that petitioner is involved in 2 FIRs having same set of allegations and he was declared proclaimed offender. He fairly accepts that challan till date has not been filed in spite of the fact that petitioner is in custody for the last 4 months.

The petitioner was released on default bail in terms of Section 167(2) Cr.P.C. The petitioner has been arrested on account of non-appearance before learned trial Court. Learned State Counsel agrees that challan, till date, has not been filed. As per Section 167(2) Cr.P.C., police is required to file challan within 60 days or 90 days, as applicable according to the sentence prescribed. The petitioner on

24.10.2019 was concededly released on bail on account of non-filing of challan. Police has not filed challan despite the fact that a period of more than 3 years has expired from the date of registration of FIR. This shows that police is not serious in filing challan.

After having scrutinized the record and having heard the arguments of both sides, this Court is of the opinion that present petition deserves to be allowed and is accordingly allowed. The petitioner is directed to be released on bail subject to furnishing of bail bonds as directed by the learned Duty Magistrate/Illaq Magistrate.

(JAGMOHAN BANSAL)
JUDGE

16.08.2022
Ajay Goswami

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No