

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

204(1)

**CRM-M No.40881 of 2019 (O&M)
DATE OF DECISION: 02nd MAY, 2022**

Narinder Singh @ Gosha

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Armrinderjit Singh Sandhu, Advocate and
Mr. Sandeep Gahlawat, Advocate,
for the petitioner.

Ms. Harsimrat Rai, Deputy Advocate General, Punjab.

Mr. Prince Pushpinder Rana, Advocate for
Mr. J.K. Singla, Advocate,
for the complainant.

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RAJBIR SEHRAWAT, J. (Oral)

This is the second petition filed by the petitioner under Section 439 of Cr.P.C. for grant of bail pending trial in case FIR No.253 dated 28.12.2018 registered under Section 420 IPC, at Police Station Sardulgarh, District Mansa.

Custody certificate of the petitioner filed by the State counsel is taken on record.

It is submitted by the counsel for the petitioner that the only offence involved in the present case is under Section 420 IPC. The allegations against the petitioner are concocted. Moreover, the said offence is triable by the Magistrate. As per the provisions contained in Section 437 (6) Cr.P.C. unless the trial is completed in 60 days, the

petitioner is entitled to be released on bail, unless the Court records some specific reasons for declining bail to the petitioner. The petitioner had applied for the bail under Section 437 (6) Cr.P.C. in the present case. However, that was declined by the Magistrate on the ground that the counsel for the petitioner did not cross-examine the witnesses on many occasions, which had led to delay in trial. However, the counsel for the petitioner could not cross-examine the witnesses only on two occasions; and even that for a total period spreading over two months. The petitioner was not responsible for any delay for the remaining period consumed in the trial so far. Even the revision petition filed against the said order of the Magistrate was dismissed by the Sessions Court on the ground that, at that particular time, the petitioner happened to be out of custody on account of Covid-19 pandemic situation. Thereafter, the petitioner had surrendered on 31.03.2022. The petitioner has been in custody in the present case for 1 year, 3 months and 14 days in total. He is not required for any investigation purposes. Hence, the petitioner deserves to be released on bail.

On the other hand, the counsel for the State has submitted that the petitioner is a habitual offender. There are, at least, as many as seven cases against the petitioner. Therefore, he does not deserve to be released on bail. However, it is not disputed that the trial in the present case is a Magisterial trial and that the petitioner is in custody for 1 year, 3 months and 14 days. It is further not disputed by the State counsel that the petitioner himself is not responsible for the delay in conclusion of the trial; except about 2 months as asserted by the petitioner.

In view of the above, but without expressing any further opinion on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail pending trial, subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

However, it is further ordered that a single default in appearance before the Trial Court; or in cross-examining the witnesses produced by the prosecution, shall lead to cancellation of the bail which is granted today by this Court.

02nd MAY, 2022
‘sandeep’

(RAJBIR SEHRAWAT)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>