

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

105

CRM-M-55938-2022

Date of Decision: 02.12.2022

SANDEEP SINGH**...Petitioner****Versus****STATE OF PUNJAB****...Respondent****Coram: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present: Mr. Subhash Kumar, Advocate
for the petitioner

Mr. Amish Sharma, AAG, Punjab

JAGMOHAN BANSAL, J. (ORAL)

Through the present petition under Section 438 Cr.P.C., the petitioner is seeking grant of anticipatory bail in FIR No.43 dated 10.04.2019 (Annexure P-1) under Sections 399 and 402 of the Indian Penal Code, 1860, registered at Police Station Lohian, District Jalandhar. The trial Court vide order dated 24.05.2022 has cancelled bail of the petitioner which was granted vide order dated 22.09.2020, passed by learned ASJ, Jalandhar.

Learned counsel for the petitioner, *inter alia*, submits that petitioner is an acute patient of HIV Reactive and HCV Reactive and he is on the last stage of disease. Learned counsel for the petitioner further contends that petitioner was arrested on 10.04.2019 in the aforesaid FIR and thereafter released on regular bail, vide order dated 22.09.2020 passed by learned ASJ, Jalandhar. Due to high fever, the petitioner failed to appear before Trial Court on 24.05.2022 and learned Trial Court cancelled bail of the petitioner and issued non-bailable warrants of arrest. The petitioner preferred anticipatory bail application before learned ASJ, Jalandhar, who vide order dated 15.07.2022, directed the petitioner to surrender before trial Court on or before 20.09.2022, however, petitioner

could not arrange surety bonds and moved an application before learned ASJ seeking extension to furnish fresh bail bonds, however, learned ASJ, vide order dated 23.09.2022 has dismissed application of the petitioner seeking extension of time to furnish fresh bail bond. The petitioner since 2019 was regular appearing before the Trial Court. The petitioner is not involved in any other FIR. The lapse was unintentional.

Detention or arrest not only deprives a person from his fundamental right of personal liberty guaranteed by Article 21 but also freedom guaranteed by article 19(1) of our Constitution. Life of every human being is most precious gift of God and everyone has very limited span of life which cannot be spoiled on account of incompetence, personal grudge, vengeance of someone; or brutal, illegal, unethical action of the State machinery. Except habitual offender, commoners living simple life after arrest lose self-respect and confidence within himself as well State. It has become very common to put criminal law in motion even though dispute involved is purely contractual or civil in nature. Many times arrest entails deprivation of source of income of entire family besides forever stigma in a closely knit society like ours. There is neither mechanism to compensate a man who is later on found innocent nor acquittal can return valuable time, energy, status, future of family members especially children which is lost on account of incarceration of bread earner of the family. Imprisonment before conviction is a sort of punishment especially when rate of conviction in our country is abysmally low.

A two judge bench of Hon'ble Supreme Court while adverting with different issues relating to delay in investigation and conclusion of trial, in ***Thana Singh v. Central Bureau of Narcotics, (2013) 2 SCC 590*** has observed:

“4. The laxity with which we throw citizens into prison reflects our lack of appreciation for the tribulations of

incarceration; the callousness with which we leave them there reflects our lack of deference for humanity. It also reflects our imprudence when our prisons are bursting at their seams. For the prisoner himself, imprisonment for the purposes of trial is as ignoble as imprisonment on conviction for an offence, since the damning finger and opprobrious eyes of society draw no difference between the two. The plight of the undertrial seems to gain focus only on a solicitous inquiry by this Court, and soon after, quickly fades into the backdrop.”

Notice of motion.

Mr. Amish Sharma, AAG, Punjab, accepts notice on behalf of respondent-State and submits that State has no objection if the present petition is disposed of.

Keeping in mind:

- i. The object of cancellation of bond or declaration of anyone as proclaimed offender/person is to secure his presence. The petitioner has come forward to face trial and undertakes to appear before trial court on each and every date, thus ,his presence would meet ends of justice;
- ii. The petitioner is ready to furnish bond/surety to the satisfaction of the trial court;
- iii. The petitioner is not involved in any other offence;
- iv. The petitioner is resident of District Ferozepur and trial is pending at District Jalandhar, thus jurisdictional court and police authorities have direct access over the activities of the petitioner;
- v. The petitioner was initially granted regular bail by learned ASJ, Jalandhar on 22.09.2020 and petitioner thereafter, on many

dates, appeared before trial court;

vi. The petitioner is an acute patient of HIV Reactive and HCV Reactive and has already suffered incarceration of 1 year and 6 months.

vii. Trial is pending since 2019 and petitioner is ready to face trial, thus, no prejudice is going to cause to prosecution or complainant;

this court is of the considered opinion that present petition needs to be allowed, and accordingly, petition is allowed. The petitioner is directed to appear before learned trial Court on or before 23.12.2022 and on his doing so, the trial Court shall admit him to bail on furnishing fresh bail bonds.

Disposed of in above terms.

(JAGMOHAN BANSAL)
JUDGE

02.12.2022

Mohit Kumar

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No