

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.46464 OF 2022(O&M)
Date of Decision: 18-08-2023

Swaran Singh
... Petitioner(s)
Versus
State of Punjab
...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. Vikas Aggarwal, Advocate
for the petitioner.

Mr. Shiva Khurmi, AAG, Punjab.

Mrs. G.K. Mann, Sr. Advocate with
Mr. Gursharan Singh and
Mr. Sunil Kumar, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
3	6.1.2021	Sanour, Patiala	302/34 IPC

The petitioner incarcerated in the FIR captioned above, had come up before this Court under Section 439 CrPC seeking bail.

2. After arguing for some time, petitioner’s counsel wants to withdraw the present petition, however, with directions to the trial Court to expedite the trial.
3. At this stage, State’s counsel has handed over an interim order dated 27.7.2023 passed by Additional Sessions Judge, Patiala-I, which reads as under:-

“Learned defence counsel Sh.Abhinav Thapar, Advocate has brought to the notice of the Court that inspite of best endeavours, accused Karanjit Singh could not be contacted. Let accused Karanjit Singh be called upon on the next date of hearing. As per copy of order dated 18.7.2023 passed in CRR-1942-2022 by the Hon'ble High Court, interim order to continue till 28.8.2023. Now to come up on 30.8.2023 for awaiting further order of the Hon'ble High Court. Accused Swaran Singh who is in custody has not been produced through video conferencing by the jail authorities. His production warrants be issued with the direction to produce accused Swaran Singh through video conferencing on the said date.”

4. Learned senior counsel appearing for the complainant submits that in all, there were four accused, out of whom three have been absolved by the police. But the an application under Section 319 CrPC was filed, based on which the trial Court took cognizance and proceeded against the said three accused. However, the said three accused have been granted bail by this Court. Subsequently, they also filed a petition under Section 482 CrPC challenging the order of taking cognizance under Section 319 CrPC by the trial Court and stay is operating on the proceedings. In the guise of the stay order, the main accused has also not been tried.

5. At this stage, petitioner’s counsel explains that the petitioner never came to this Court under Section 482 CrPC or 401 CrPC against cognizance or charges. He submits that he is unnecessarily suffering for his no fault. Although the police has absolved three of the accused, which would show that the complainant was not credible and truthful. Despite that, the petitioner has been incarcerated without any reason.

6. Be that as it may, without making any observation on the merits of the case, it is clarified that the stay was only *qua* the accused who were arraigned under Section 319 CrPC. However, since the petitioner is in custody for a long period of time, this court requests the concerned trial court to consider to try the petitioner separately and make all endeavours to conclude the trial expeditiously against him. It is clarified that this order of speeding up the trial is subject to the condition that neither the petitioner shall seek any adjournment nor try to use any tactics to delay the trial. If he does so, this order of expediting the trial shall stand automatically recalled by resorting to Section 362, read with Section 482 Code of Criminal Procedure, 1973, without any further reference to this court. However, if the trial is not completed within a reasonable time, and the delay is not attributable to the petitioner, in that situation, it shall be permissible for the petitioner to file a bail petition, by taking an additional ground of delay in the trial, and the trial Court shall consider his petition without being influenced by the previous rejection by the trial Court or this Court.

Petition disposed of as withdrawn with observations. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

Aug 18, 2023
AK

Whether speaking/reasoned	:	Yes
Whether reportable	:	No