

CRA-D-924-2022 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRA-D-924-2022 (O&M)
Date of decision:-25.08.2023

BALWINDER SINGH @ BABA

Appellant

VS

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Salil Dev Singh Bali, Advocate for the appellant.

Mr. Jasdev Singh Mehendiratta, Addl. A.G. Punjab with
Mr. Alankar Narula, AAG, Punjab.

Ritu Bahri, J. (Oral)

1. The instant appeal has been filed under Section 21 of the National Investigation Agency Act, 2008 read with Section 372 of Cr.P.C. and has been directed against the order dated 06.10.2022 passed by learned Additional Sessions Judge, Kapurthala, in case bearing FIR No. 140 dated 07.05.2020, registered under Sections 384, 465, 467, 468, 471, 473 & 489 of IPC, Section 25 of Arms Act, and

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Section 13, 18, & 19 of Unlawful Activity Prevention Act, 1967, later on added Sections 120-B, 482, 121, 121-A & 122 of IPC, registered at Police Station Sultanpur Lodhi, District Kapurthala, whereby the bail application filed by the present appellant had been dismissed.

2. It is submitted by the appellant that the impugned order dated 06.10.2022 is not sustainable in the eyes of law and is liable to be set aside as he has been falsely implicated in this case. He was not named in the FIR. He has been involved in this case on the basis of disclosure statement of the co-accused and no recovery has been effected from him. Hence prayer has been made for allowing the appeal and extending benefit of regular bail to him.

3. Learned AAG, Punjab representing the respondent-State has contested the application by submitting that there are serious allegations against the appellant and there are chances of his misusing the concession of bail, if granted. Hence, it has been urged by him that the appeal does not deserve to be allowed.

4. It has been submitted by learned State counsel that out of 36 witnesses which are to be examined by the prosecution, three have since been examined. The trial is likely to take time. Learned counsel for the appellant has placed reliance upon orders dated 15.03.2022 passed in CRA-D-405-2020 whereby accused Jagtar Singh Johal had been extended benefit of regular bail and has submitted that the SLP filed by the NIA against the said order has been dismissed by Hon'ble Supreme Court. He has also referred to order dated 28.10.2021 passed

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in Criminal Appeal No. 1302 of 2021 by the Hon'ble Supreme Court wherein similar allegations as against the present appellant had been levelled against the accused-appellant and pamphlets were alleged to have been recovered from him. He was extended benefit of bail as he had remained in custody for a period of 1 year and 6 months. Reliance has also been placed upon the order dated 14.01.2022 passed by co-ordinate Bench of this Court in *Amarjit Singh @ Amar Singh Versus NIA*, CRA-D-226-2021, wherein the accused in similar case had remained in custody for a period of 2 years and 4 months, he was extended benefit of bail. It is submitted by learned counsel for the appellant that the respondent-State has not preferred any Special Leave Petition against this order. In the instant case, the allegations against the appellant are that he used to maintain account of sale/purchase of drugs, arms and eminitions with the co-accused in conspiracy for waging war against the Government and pamphlets of 11 Sikh Referendum 2020 were recovered at his instance. As per the custody certificate, the appellant was acquitted in some of the FIRs registered against him. He has been convicted in one of such cases and is undergoing rigorous imprisonment for a period of 2 years, whereas he has been facing trial in one case. As per the custody certificate, the appellant is in custody for a period of 3 years, 3 months and 10 days.

5. Keeping in view the fact that the trial is not likely to conclude in near future and the nature of the allegations as levelled

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against the appellant, we are of the opinion that appeal deserves to be allowed. Hence the same is allowed and the appellant is ordered to be released on bail within a week from today on furnishing bail bonds/surety bonds to the satisfaction of Special Court, Kapurthala. The Special Court shall also put a condition that the appellant shall report in the local police station after every 15 days on 1st and 15th of the month at 10:00 am before the concerned SHO, to ensure that his whereabouts as such are always ascertainable.

6. The present appeal stands allowed, accordingly. Needless to say, the observations made herein are not binding upon the merits of the case.

(RITU BAHRI)
JUDGE

(MANISHA BATRA)
JUDGE

25.08.2023
pooja saini

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No