

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M No.12090 of 2024
Date of Decision: 23.04.2024

MAJOR SINGHPetitioner(s)
Vs
STATE OF PUNJABRespondent(s)

CORAM: *HON'BLE MR. JUSTICE HARKESH MANUJA*

Present: Mr. Anshuman Dalal, Advocate
for the petitioner.

Mr. Rahul Jindal, Asstt. A.G., Punjab.

Mr. Vipin Mahajan, Advocate and
Ms. Chandanpreet Kaur Ahluwalia, Advocate
for the complainant.

HARKESH MANUJA, J. (Oral)

- [1]. By way of present petition filed under Section 439 Cr.P.C., prayer has been made for grant of concession of regular bail to the petitioner in case bearing FIR No.86 dated 19.11.2019 registered under Sections 302, 506, 148, 149, 120-B IPC and Sections 25 & 27 of Arms Act, 1959 at Police Station Kotli Surat Mallian, District Gurdaspur, Punjab.
- [2]. Learned counsel for the petitioner very fairly submits that the charges in the present case were framed on 03.12.2021, however so far only 03 prosecution witnesses out of 59 witnesses have been examined and in case an appropriate direction is issued to the Trial Court to expedite the trial, petitioner would not press the present petition at this stage.
- [3]. On the last date of hearing, following order was passed by this Court:-

“Learned counsel for the petitioner submits that despite there being direction issued by this Court vide order dated 22.02.2024 passed in CRM-M No.28967 of 2022 titled ‘Jagdeep Singh @ Jaggu vs. State of Punjab’ to expedite the trial, the prosecution has failed to produce any PW on the last two hearings held on 12.03.2024 and 09.04.2024.

In view of above, Senior Superintendent of Police, Gurdaspur is directed to file his own affidavit as regards delay in trial by not ensuring the presence of prosecution witnesses before the Trial Court.

List on 23.04.2024.”

[4]. In pursuance to the aforesaid order, status report by way of an affidavit of Ashwini Gotyal, IPS, Senior Superintendent of Police, Police District Batala, District Gurdaspur has been filed in Court so as to explain the delay in trial. The same is taken on record and relevant extract from Para No.9 thereof is reproduced hereunder:-

“9. That the Ld. Sessions Court, Gurdaspur has framed charges in the present matter on 03.12.2021. In total, there are 59 prosecution witnesses, out of which 35 are police officials, 17 other official witnesses and 7 private persons including the complainant and his family members. The matter was listed before the Ld. Trial Court for the prosecution evidence for the first time on 14.12.2021. Thereafter, the matter was listed before the Ld. Trial Court for examination of prosecution witnesses in the present matter on different dates for 39 times in total i.e. lastly for 09.04.2024. However, so far only two police officials and one other witness i.e. complainant, have appeared and examined. Furthermore, despite directions passed by this Hon'ble Court on 22.02.2024 in CRM-M No.28967 of 2022, no witness have appeared in the matter for examination on last two dates of hearing before the Ld. Trial Court.”

[5]. Perusal of record shows that charges were framed on 03.12.2021 and out of 59 prosecution witnesses, 35 witnesses are police officials besides 07 other official witnesses. Since the framing of charges, 39 different dates have been fixed for examination of prosecution witnesses and only 03 of them have been examined

so far, which primarily shows that the delay in trial is attributable to the prosecuting agency without any fault on the part of the petitioner which has become one of the reason for his extended incarceration.

[6]. In view of aforesaid, this petition is disposed with a request to the Trial Court to expedite the trial and conclude the same preferably within a period of six months. However, for the unexplained and unreasoned delay on its part the prosecution agency is saddled with a cost(s) of providing one Washing Machine of branded Company for the use at Nanak Chand Abrol Varid Ashram, Anarkali Road, Vadda Talab, Batala District Gurdaspur against due receipt to be forwarded to the concerned Trial Court, within a period of two weeks from today. The said amount of cost(s) shall be recovered from the concerned responsible officials for the delay in question.

April 23, 2024

Atik

Whether speaking/reasoned

Whether reportable

(HARKESH MANUJA)

JUDGE

Yes/No

Yes/No