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IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

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CRM-M-43139-2022 (O&M)
Date of decision: 22.10.2024

Rajan Gautam ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Varun Veer Chaudhary, Advocate
for the petitioner.

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed by the petitioner under Section 427 of Cr.P.C. making prayer for passing an order for concurrent running of various sentences, which have been awarded to him by the Courts of learned Additional Sessions Judge, Karnal/learned Sessions Judge, Kaithal in the following 06 FIRs:

Sr. No.	FIR Number/Date	Under Sections	Police Station	Maximum Sentence
1.	FIR No. 299 dated 09.10.2015	328, 420 of IPC	Nissing, Karnal	05 years
2.	FIR No. 24 dated 23.05.2018	328, 379 of IPC	Taraori, Karnal	04 years
3.	FIR No. 802 dated 21.12.2016	328, 379-A of IPC	Assandh, Karnal	08 years
4.	FIR No. 190 dated 28.06.2015	328, 379 of IPC	Butana, Karnal	07 years
5.	FIR No. 153 dated 11.03.2015	328, 379 of IPC	Civil Lines, Karnal	05 years
6.	FIR No. 361 dated 08.11.2015	328, 379 of IPC	Civil Lines, Kaithal	06 years

2. In all the above cases, the petitioner had been held guilty for commission of above mentioned offences and had been sentenced as

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mentioned in the above table. Obviously, the petitioner faced trial in aforesaid 06 cases and have been convicted therein, out of which, 06 trials were conducted by learned Additional Sessions Judge, Karnal and 01 trial was conducted by learned Additional Sessions Judge, Kaithal. In each of the cases, it was directed by the Court concerned that both sentences would run concurrently and the period already undergone by the petitioner during investigation and trial shall be set off against his substantive sentence.

3. *Per contra*, learned State counsel has opposed the prayer of the petitioner by arguing that the petitioner is not entitled to the relief as sought by him for concurrence of aforesaid sentences as he is a habitual offender.

4. Prayer in this petition has been made that the sentences of the petitioner in the above mentioned 06 distinct cases should run concurrently. It is submitted in the petition and learned counsel for the petitioner has argued that if the sentences awarded to him are to run consecutively, then the total period of sentence awarded to him would come to 35 years in respect of the period of convictions so awarded. As per section 427 of the code of criminal procedure when a person already undergoing a sentence of imprisonment is sentenced on a subsequent conviction to imprisonment or imprisonment for life such imprisonment or imprisonment of life shall commence at the expiration of imprisonment to which he has been previously sentenced, unless the Court directs that the subsequent sentence shall run concurrently with such previous sentence. Meaning thereby that a discretion is conferred on the Court under this provision to direct that the subsequent sentence following a conviction may run concurrently with the previous sentence. The Hon'ble

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Supreme Court had interpreted the provisions of section 427 of Cr.P.C. in ***Mohammad Zahid vs. State through NCB : 2021 SSC online 1183*** and had made the following observations:

“9. Thus from the aforesaid decisions of this Court, the principles of law that emerge are as under:

- (i) if a person already undergoing a sentence of imprisonment is sentenced on a subsequent conviction to imprisonment, such subsequent term of imprisonment would normally commence at the expiration of the imprisonment to which he was previously sentenced;
- (ii) ordinarily the subsequent sentence would commence at the expiration of the first term of imprisonment unless the court directs the subsequent sentence to run concurrently with the previous sentence;
- (iii) the general rule is that where there are different transactions, different crime numbers and cases have been decided by the different judgments, concurrent sentence cannot be awarded under Section 427 of Cr.PC;
- (iv) under Section 427 (1) of Cr.PC the court has the power and discretion to issue a direction that all the subsequent sentences run concurrently with the previous sentence, however discretion has to be exercised judiciously depending upon the nature of the offence or the offences committed and the facts in situation. However, there must be a specific direction or order by the court that the subsequent sentence to run concurrently with the previous sentence.”

5. In ***Anil Kumar vs. State of Punjab : 2017 (1) RCR (Criminal) 691***, Hon’ble Supreme Court was dealing with a case where prayer had been made for concurrent running of sentences in two different cases against the

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appellant wherein he was convicted under different provisions of Narcotic Drugs and Psychotropic Substances Act, 1985. On considering the facts and circumstances of the case, it was deemed appropriate to direct the sentences imposed on the appellant in two cases to run concurrently. However, the fine amount and the default sentences were ordered to be maintained. It was ordered that if the fine amount was not paid then the default sentence will run consecutively and not concurrently. In ***Benson vs. State of Kerala : 2016 (4) RCR (Criminal) 602***, Hon'ble Supreme Court had directed the substantive sentences imposed on the convict to run concurrently, who was convicted for the offences punishable under Sections 379 and 414 of IPC read with Section 34 of IPC in at least 11 cases by separate judgments and was sentenced in each of the cases and total length of sentences in aggregate was around 19 years. Similarly in ***Iqram vs. state of Uttar Pradesh and others : 2022(4) Crimes 697***, the appellant-accused was tried in nine cases for commission of offences under the provisions of Electricity Act. He had agreed to plea bargain and was held guilty and convicted by the Court of Additional Sessions Judge by nine separate judgments passed on a same day. He had been confined in jail as under trial for varying periods. The trial Judge, while awarding sentence to the accused, directed that the period of custody as an under trial would be set off against the period of sentence. The sentences awarded in the cases, wherein the conviction was under two different provisions, were ordered to run concurrently. However, there was no order for treating the sentences to be consecutive in the nine cases. The Hon'ble Supreme Court, while relying upon ***Mohammad Zahid's*** case (supra) observed that all the

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convictions took place on the same day and the petitioner was granted set off within the meaning of Section 428 of Cr.P.C., as such by not passing any direction within the ambit of Section 427 (1) of Cr.P.C., so as to allow the subsequent sentences to run concurrently in all the cases, miscarriage of justice was caused and, therefore, direction was given that the sentences imposed on the appellant in nine sessions trial shall run concurrently.

6. In the instant case also, all the above mentioned 06 cases were similar in nature, wherein the petitioner have been convicted and sentences as mentioned above. The period for which the petitioner had remained in custody during investigation, inquiry and trial was ordered to be set off against the substantive sentence. However, since all the six trials were conducted separately during different periods, no order for concurrent running of sentences awarded in all these cases, could be passed. Having considered the facts and circumstances of the present case, the nature of the offences involved in all the above mentioned aforementioned 06 cases, sentences awarded, period of detention of the petitioner as on date, in my considered opinion, the petitioner is certainly entitled for benefit of discretion contained in Section 427(1) of Cr.P.C. and the same deserves to be exercised to meet the ends of justice as it would also not be inconsistent with the administration of justice. Accordingly, the prayer made by the petitioner to that extent is allowed and it is ordered that the substantive sentences awarded to the petitioner in the above referred 06 cases would run concurrently.

7. So far as the default sentences are concerned, the provisions of Section 427 of Cr.P.C. do not direct for concurrent running of the sentences

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awarded in default of payment of fine/compensation. Hence, the sentences which the petitioner has been directed to undergo in default of payment of fine shall run consecutively if he does not pay the fine. However if he pays the same even now, he shall not be required to undergo default sentences. In view of the above discussion, the petition stands allowed.

8. A copy of this order be sent to the concerned jail authorities for necessary compliance.

22.10.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>