



CRM-M-49223-2022

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

110

CRM-M-49223-2022

Date of Decision: September 25, 2024

AMANDEEP SINGH

-Petitioner

VERSUS

STATE OF PUNJAB

-Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Vipul Jindal, Advocate
for the petitioner.

Mr. Pardeep Bajaj, D.A.G., Punjab.

KULDEEP TIWARI, J. (Oral)

1. Through the instant petition, as instituted under Section 439 of the Cr.P.C., the petitioner craves for indulgence of this Court for him being enlarged on regular bail, in case FIR No.79 dated 28.4.2018, under Section(s) 21/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as the 'N.D.P.S. Act'), and, Section 25 of the Arms Act, registered at Police Station City Patti, District Tarn Taran.

2. Succinctly stated, the allegations levelled against the petitioner are clothed with an aura of graveness, inasmuch as, 04 kgs of heroin and a .9 mm pistol have been recovered from him. What further aggravates the solemnity of these allegations is that, the petitioner is a habitual offender, inasmuch as, apart from him being involved in eight more criminal cases registered under the N.D.P.S. Act, he is also involved in a number of other cases registered under the I.P.C., and/or, the Arms Act.



CRM-M-49223-2022

3. Nonetheless, since the principal argument canvassed by the learned counsel for the petitioner, thus seeking the relief of regular bail, was embedded in the petitioner's long incarceration, i.e. for approx. 06 years, therefore, this Court initially called for a report from the learned trial Court concerned, disclosing therein the reasons, which caused delay in conclusion of the trial.

4. In deference to the direction (supra), a report dated 03.08.2024 was sent by the learned trial Court concerned, through proper channel. Strangely enough, the primary cause for delay in conclusion of the trial, as became voiced in this report, was the non- production of the undertrial/petitioner, during the period 02.05.2022 to 12.02.2024, before the learned trial Court concerned, despite issuance of numerous production warrants. The relevant extract of this report is reproduced hereunder:-

"From 02.05.2022 till 12.02.2024, accused Amandeep Singh was not produced by the jail authorities, either in person or through Video Conferencing (except 01.08.2022 & 05.10.2023) despite of issuance of production warrants for each and every date. During this period, although sometimes PWs were present in the Court, but couldn't be examined due to absence of accused, who was to be produced from Custody.

On 12.02.2024 it came to notice of this Court that the second accused of this case, namely Dilbagh Singh was also arrested in some other case. From that date, till last hearing date, none of the accused have been produced by Jail authorities, either in person or through Video Conferencing, despite of issuance of production warrants."

5. In view of the astonishing revelations poured out in the report (supra), but, *prima facie* emanating from the lackluster and indolent approach of the jail authority(ies) concerned, this Court, vide order dated

**CRM-M-49223-2022**

08.08.2024, deemed it imperative to, before evincing any opinion upon the claim made in the instant petition, call for an explanation from the Superintendent of the Jail concerned, on his personal affidavit, regarding non-production of the undertrial/ petitioner for such a long period. Moreover, the Senior Superintendent of Police concerned was also directed to, on his affidavit, inform this Court about the expected time for conclusion of the prosecution evidence.

6. The directions embodied in the order dated 08.08.2024 were complied with by all concerned, through filing their respective replies/affidavits. What emerged from a studied survey of all these replies/affidavits, was that, the jail authority(ies) concerned shifted the entire onus of non-production of the undertrial/petitioner before the learned trial Court concerned upon the local police authority(ies).

7. To be precise, in the affidavit sworn by the Superintendent, Central Jail, Shri Goindwal Sahib, it was disclosed that, despite 16 requisitions becoming sent by the jail authority(ies) for providing adequate number of police guards to facilitate the production of undertrial/petitioner before the learned trial Court concerned, yet no favourable assistance was purveyed. Moreover, it was further averred in the said affidavit that, even request was made to the learned trial Court concerned to accept the presence of the undertrial/petitioner through video conferencing, however, the said request was turned down. It would be apt to record here that, the averment regarding decline of undertrial's/petitioner's presence through video conferencing by the learned trial Court concerned, was not substantiated by any cogent and tangible documentary proof.

**CRM-M-49223-2022**

8. Moreover, in the affidavit (*supra*), a reference was also made to the Memorandum of Understanding-cum-Standard Operation Procedure, as became prepared in the year 2024, in a joint meeting held amongst the learned Sessions Judge concerned, Jail Authority(ies) concerned and the Local Police Authority(ies) concerned, thus for ensuring effective production of undertrial/jail inmates, either through virtual or physical mode, before the learned trial Courts concerned. However, since these efforts primarily appeared to be ineffective to this Court, inasmuch as, the Memorandum of Understanding-cum-Standard Operation Procedure (*supra*) was prepared only in respect of a single District Tarn Taran, whereas, the problem of non-production of undertrial/jail inmates before the learned trial Courts concerned was/is not confined only to a particular District, rather is prevailing in the entire State of Punjab, therefore, this Court, vide order dated 13.08.2024, directed the A.D.G.P. (Prisons), Punjab, to record his personal appearance before this Court on 14.08.2024, for rendering assistance as to why no common procedure has been adopted by all the prisons in the State of Punjab, thereby ensuring presence of undertrial/jail inmates before the learned trial Courts concerned, as and when summoned.

9. In deference to the direction (*supra*), Mr. Arun Pal Singh, Additional Director General of Police, Prisons, Punjab, Chandigarh, recorded his personal appearance before this Court on 14.08.2024 and also filed his detailed affidavit. In his affidavit, the officer categorically admitted that, owing to certain shortcomings vis-à-vis logistics and procedural requirements, there was lapse on the part of the authority(ies) concerned,

which resulted in non-production of undertrial/jail inmates before the

**CRM-M-49223-2022**

learned trial Courts concerned. Moreover, this affidavit also referred to a notification issued by the Department of Home Affairs and Justice concerned, in order to address the issue of inordinate delay in conclusion of trial within the State of Punjab, and, constitution of District Nodal Agency. What further surged forth from a perusal of this affidavit was that, reference(s) became made therein to the procedure regarding smooth production of jail inmates before the learned courts, and, establishment of special cells to monitor the production of undertrial prisoners for court hearings.

10. The affidavit (supra) also disclosed that, an official letter dated 15.06.2023 was written by the Director General of Police, Punjab, to all the senior functionaries in the State of Punjab, thereby directing them to pay due attention to provide the required escorts for production of jail inmates for court hearings, and, the Special Director General of Police, Law and Order, was also requested to monitor the performance of District and Commissionerate regarding court appearance of undertrial/jail inmates.

11. Apart from the hereinabove alluded to disclosures carried in the affidavit (supra), during the course of hearing, the officer fairly conceded that these efforts are yet not yielding the desired results. However, he rendered a verbal assurance to this Court that, since the competent authority is already seized of the issue(s) raised by this Court, therefore, within a month therefrom, the competent authority would devise an efficacious procedure for well ordered production of undertrial/jail inmates, throughout the State of Punjab, before the learned trial Courts concerned, either through physical or virtual mode. Resultantly, on this assurance, which was also

**CRM-M-49223-2022**

supported by the learned Advocate General, Punjab, the matter was adjourned. Thereafter, on 23.09.2024, as per the assurance (supra), a detailed affidavit of the Under Secretary, Government of Punjab, Department of Jails, Punjab, was filed before this Court by the learned State counsel. The learned State counsel, after having instructions from the quarter concerned, also informed this Court that the said affidavit has been filed after approval of the Home Secretary, State of Punjab, on the official file.

12. On a studied survey of the affidavit (supra), it emerged that, in the month of June 2024, the production of jail inmates, through physical mode, remained ineffective as 35% of them were not produced due to unavailability of logistics and other support from the District Police, on account of their engagement in regular duties towards the maintenance of law and order, whereas, in that month, the success rate regarding production of jail inmates scheduled to be produced through VC system installed inside the jail was 99.4%.

13. The learned State counsel although agreed that the existing system of production of jail inmates, through physical mode and even through virtual mode, is ineffective and it requires reconsideration, however, by referring to the hereinafter extracted measures taken by the authority(ies) concerned, and, which become embodied in the affidavit (supra), he contends that sincere efforts are being made to achieve the desired results of making the VC system in the jails more effective.

***“STEPS TAKEN FOR MAKING THE VC SYSTEM IN THE
JAILS MORE EFFECTIVE*”**

“4. That the department of Prison, while adhering to the directions of the Hon'ble Court, was conscious about the problem

**CRM-M-49223-2022**

being faced due to the non-production of the inmates to the Court for the Court hearing due to ineffective modes being adopted and resultantly delaying it the conclusion of the Trials of the criminal matters, by the Ld. Courts. In furtherance of the voyage of finding the solutions, the Department of Prison had undertaken following steps:

(a) Visiting the Jails in State of Haryana and Madhya Pradesh, to study their VC system to produce the inmates in the Courts during Court Hearing:

That 02 Committees were formulated to study the VC systems and procedure of Production of inmates adopted by the State of Haryana and Madhya Pradesh respectively. These committees have also submitted their reports regarding comparative study of the Systems being used by them and the system being used by the State of Punjab. On the basis of these reports and present infrastructure/scenario, a proposal was sent by office of Additional Director General of Police, Prisons, Punjab, Chandigarh to the office of deponent vide No. GI/Prov.4/2253 dated 13.09.2024, regarding augmentation of Video Conferencing (VC) infrastructure in jails within the State of Punjab for the well-ordered production of jail inmates before the learned trial Courts. The comprehensive proposal is presently under active consideration of the Government.

(b) Comprehensive study of the working of the Courts and Coordination by the Prison Department while Producing Inmates for the Court Hearings through VC System, to develop Standard Operating Procedures (SOPs):

That it is a matter of fact that approximately 237 District and Sessions Judges and 738 Judicial Magistrates are working as Presiding Officers in the different Courts in the State of Punjab. All these presiding officers hear approximately 2200-2500 cases on a day basis, wherein the presence of inmates is required for carrying out the daily business of the Courts. Producing these numbers of inmates through VC Mode is a challenge for the Prison Department and in order to address the challenge of conducting at least 80% of the total production through VC (100% remand extension and 80%

**CRM-M-49223-2022**

for trial purpose), there is a need of appropriate coordination amongst all pillars of Criminal Justice System (Judiciary, Police and Prisons).

It is having already been recommended to the Government of Punjab vide letter dated 13.09.2024 (supra) that an SOP may be framed on the pattern of "District Courts of Madhya Pradesh Video Conferencing Rules, 2018, for which a committee of officers of all stakeholders needs to be constituted. The Committee may be constituted under the Chairpersonship of representative of Hon'ble Punjab and Haryana High Court, with members from amongst Senior officers of Police Department, Senior officer of Prisons Department, office of the Ld. Advocate General Punjab and NIC. It is further suggested that Director Prosecution and Litigation, Punjab may also be nominated as a member of this Committee.

Further, members from the field units (Judicial Officers, SSPs and Superintendents of Prisons) may also be involved in suggesting measures while framing the SOP to have better coordination and practical outcome.

(c) Developing an Online Portal for monitoring the Case Status, to be developed by specialized agency like NIC:

That there is a need of an online portal which would be updated and seen at both court and jail points. The portal will display the ongoing hearings of cases (Court-wise, jail-wise, case-wise and kiosk wise). The officials of jail and courts. may upload a schedule of court hearings together for monitoring and maintenance of record of court hearings. The schedule may be amended as per the convenience of the Ld. Courts. This portal may be got prepared though NIC, and may be integrated with ICJS. Hence, NIC may be requested to nominate a team to design an online portal for monitoring and maintaining the record of court hearings.

(d) Requirement of Infrastructure and Resources:

That it is not out of the place to say here that in order to meet the need of the hour and to achieve the abovesaid goal, lot of resources are required to induct which include Infrastructure and Manpower. Currently, the Prison Department, Punjab is analyzing



CRM-M-49223-2022

the existing resources of VC System, available with the Prison Department in comparison to the exact need of the hour with a scope of future expansion. The Proposal submitted to the Government is also under the consideration of the Government and soon the Government would take an appropriate action on the same.”

14. The hereinabove extracted portion of the affidavit (supra) reflects that, vide letter dated 13.9.2024, a recommendation has been made by the competent authority to the State Government for framing an S.O.P. on the pattern “*District Courts of Madhya Pradesh Video Conferencing Rules, 2018*”, for which a committee of officers of all the stakeholders needs to be constituted. It has been further recommended that, the committee may be constituted under the Chairmanship of a representative of the Punjab and Haryana High Court with members from amongst Senior Officers of Police Department, Senior Officers of Prisons Department, Office of the Advocate General, Punjab and the N.I.C. It has also been suggested that the Director, Prosecution and Litigation, Punjab, may also be nominated as a member of the said Committee, and, members from the field units i.e. Judicial Officers, SSPs and Superintendents of Prisons, may also be involved in suggesting measures, while framing the SOP to have better coordination and practical outcome.

15. In view of the hereinabove extracted measures/steps, taken as of today by the competent authority, this Court records its satisfaction thereto and orders to close the instant proceedings. However, it is expected that the proposed SOP, as detailed in the affidavit (supra), including the creation of infrastructure and other amenities, would be finalized within six months from today. **Moreover, since a representative of this Court is**



CRM-M-49223-2022

recommended to be a part of the S.O.P. Draft Committee (supra), therefore, the Registrar General of this Court is directed to place this order before Hon'ble the Chief Justice, on administrative side, for necessary action.

16. Now, insofar as the instant petition is concerned, wherethrough, the petitioner craves the concession of regular bail, it is informed to this Court that, now only three witnesses remain to be examined, who are bound down for 07.10.2024. Therefore, taking into account:- (i) the gravity of the allegations levelled against the petitioner; (ii) the criminal antecedents of the petitioner; and (iii) the stage of trial, this Court is not inclined to grant the relief of regular bail to the petitioner at this stage.

17. In summa, the instant petition is **dismissed** at this stage. However, it is expected that the learned trial Court concerned would positively examine all the remaining witnesses within two months from today.

September 25, 2024
ajay-1/devinder

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No