

2025.PHHC:007581



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

CRM-M-1296-2025
Date of Decision: **20.01.2025**

SUKHWINDER KUMAR AND OTHERS

.....Petitioners

VERSUS

STATE OF PUNJAB AND ANOTHER

.....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Bipan Ghai, Sr. Advocate with
Mr. Nikhil Ghai, Advocate,
for the petitioner

Mr. Sahil R. Bakshi, AAG, Punjab.

KULDEEP TIWARI, J.(Oral)

1. Through the instant petition, the petitioners crave for indulgence of this Court for his being enlarged on regular bail, in a complaint case bearing No.73 of 2017, dated 09.11.2017, instituted under Sections 406, 420 and 120-B of the of IPC, 1860, which pending before the learned Chief Judicial Magistrate, SAS Nagar Mohali (hereinafter referred to as ' the learned trial court concerned').

2. Learned senior counsel for the petitioners submits that the petitioners were summoned to face trial in the complaint (*supra*). Fetching grievances to be arrested on account of summoning by the learned trial court concerned, the petitioners preferred an anticipatory bail application before the learned Additional Sessions Judge, Mohali, which

was allowed vide order dated 03.10.2019 (Annexure P-2). Thereupon, the petitioners were continuously appearing before the learned trial court concerned. However, once they failed to cause appearance, and consequently, the learned trial court concerned, declared them proclaimed vide order dated 04.07.2022 (Annexure P-20). Finally, the petitioners were arrested in the month of October, 2024, and till date, they are behind bars.

3. He further submits that the petitioners have been summoned in a private complaint, and their further incarceration is not warranted at all. He next submits that the petitioners have suffered sufficient incarceration, i.e. about more than 3 months, as on today, that too purely for the reason of their absence from the learned trial court concerned.

4. He, finally, submits that the petitioners will cause appearance on each and every date before the learned trial court concerned to face the trial, in case the asked for relief is granted to them.

5. *Per contra*, the learned State counsel, has vociferously opposed the asked for relief to the present petitioners, on the ground that they petitioners have jumped the bail and remained absent for about 2 years, from the clutches of law.

6. He further submits that the entire endeavour of the petitioners is to adopt the dilatory tactics, so as to delay the adjudication of the trial.

7. He has filed a custody certificate *qua* the petitioners today in court, which is taken on record. A perusal of the custody certificate reveals that the petitioners have suffered incarceration of more than 3

months, as on today, and they are stated to be involved in other criminal cases also.

8. This Court has considered the rival submissions made by the learned counsel for the parties concerned, and has gone through the entire case file.

9. The reason for forming the above inference emanates from the factum that:- **(i) petitioners are in judicial custody on account of their being absence before the learned trial court concerned; (ii) they have suffered incarceration of more than 3 months, as on today, as per the judicial custody; (iii) the instant matter is undisputedly triable by a court of Judicial Magistrate Ist Class; (iv) the charges are yet to be framed by the learned trial court concerned; (v) no fruitful purpose would be served by keeping the petitioner behind the bars; (vi) the conclusion of the trial is not likely to conclude anytime soon.**

10. Considering the hereinabove made discussion, this Court deems it fit and appropriate to grant the concession of regular bail to the petitioners. Therefore, without commenting upon the merits and circumstances of the present case, the present petition is **allowed**. The petitioners are ordered to be released on bail on furnishing of their respective bail bonds with heavy surety bonds to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

11. However, anything observed here-in-above shall have no effect on the merits of the trial, and is only meant for deciding the present petition.

12. However, it is clarified that if in future, the petitioners are found indulging in commission of similar offences, as are involved herein, the respondent-State shall be at liberty to make an appropriate application seeking cancellation of regular bail, as granted by this Court.

13. All pending application(s), if any, also stand **disposed** of accordingly.

January 20, 2025
dharamvir

(KULDEEP TIWARI)
JUDGE

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