



215

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-1316-2025
DATE OF DECISION: 27.03.2025

OMKAR ALIAS BABU ...PETITIONER

Versus

STATE OF PUNJAB ... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Edward Augustine George, Advocate
 for the petitioner(s).
 Mr. J.S. Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

This petition has been filed under Section 439 of Code of Criminal Procedure with the prayer to grant the concession of regular bail during the pendency of the trial to the petitioner in case FIR No. 177 dated 08.08.2022 under Section 22 and 29 of The Narcotic Drugs and Psychotropic Substances Act, 1985 registered at P.S. City Moga, District Moga.

2. Learned State Counsel has filed custody certificate of the petitioner and submits that the present petition is not maintainable as the petitioner is not in custody in the present FIR and is serving the sentence in another FIR no.159 dated 07.08.2019 under Section 22/29/61/85 of The Narcotic Drugs and Psychotropic Substances Act, 1985 registered at P.S. City South Moga.

3. After arguing for some time, learned counsel for the petitioner prays for withdrawal of the present petition at this stage. However, he submits that a direction be issued to trial Court to expedite



the trial, as charges have been framed on 09.02.2023 and after passing of of more than two years, out of total 15 prosecution witnesses only 10 prosecution witnesses have been examined as is evident from the custody certificate filed by learned State Counsel.

4. This court cannot shut its eyes to the fact that "Speedy trial" and "fair trial" to a person accused of a crime are integral part of Article 21. There is, however, qualitative difference between the right to speedy trial and the accused's right of fair trial. Unlike the accused's right of fair trial, deprivation of the right to speedy trial does not per se prejudice the accused in defending himself. The right to speedy trial is in its very nature relative. It depends upon diverse circumstances. Each case of delay in conclusion of a criminal trial has to be seen in the facts and circumstances of such case. Mere lapse of several years since the commencement of prosecution by itself may not justify the discontinuance of prosecution or dismissal of indictment. The factors concerning the accused's right to speedy trial have to be weighed vis-a-vis the impact of the crime on society and the confidence of the people in judicial system. Speedy trial secures rights to an accused but it does not preclude the rights of public justice. The nature and gravity of crime, persons involved, social impact and societal needs must be weighed along with the right of the accused to speedy trial and if the balance tilts in favour of the former the long delay in conclusion of criminal trial should not operate against the continuation of prosecution and if the right of the accused in the facts and circumstances of the case and exigencies of situation tilts the balance in his favour, the prosecution may be brought to an end. These principles must apply as well when the appeal court is



confronted with the question whether or not retrial of an accused should be ordered."

5. Further reliance can be placed upon the dictum of Apex court in '*Anokhilal v. State of Madhya Pradesh CRA-62-63 of 2014 SC*' wherein it has been held that "Expeditious disposal is undoubtedly required in criminal matters and that would naturally be part of guarantee of fair trial. However, the attempts to expedite the process should not be at the expense of the basic elements of fairness and the opportunity to the accused, on which postulates, the entire criminal administration of justice is founded. In the pursuit for expeditious disposal, the cause of justice must never be allowed to suffer or be sacrificed. What is paramount is the cause of justice and keeping the basic ingredients which secure that as a core idea and ideal, the process may be expedited, but fast tracking of process must never ever result in burying the cause of justice".

6. In view of the discussions made hereinabove and however, keeping in view the stage of trial, this Court deems it appropriate to direct the trial court to make an endeavour to conclude the trial within a period of six months from the date of receipt of certified copy of this order.

7. Dismissed as withdrawn at this stage.

(SANDEEP MOUDGIL)
JUDGE

27.03.2025
anuradha

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No