

(2011) 04 P&H CK 0300

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous No. M. 2480 of 2011 (O and M)

Gurpal Singh @ Pala

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision: April 18, 2011

Acts Referred:

- Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS) - Section 18, 61

Hon'ble Judges: Alok Singh, J

Bench: Single Bench

Final Decision: Allowed

Judgement

Alok Singh, J.

This is a petition seeking regular bail in case FIR No. 153, dated 19.07.2010, under Sections 18/61/85 of N.D.P.S. Act, registered at Police Station Jandiala, District Amritsar.

2. Learned Counsel for the Petitioner states that Petitioner is in judicial custody w.e.f. 19.07.2010 and despite of two dates fixed, neither Investigating Officer has been examined nor other witnesses have been examined. Learned Counsel, while placing reliance on the judgment the Hon'ble Apex Court in the matter of State of Kerala v. Raneef reported in 2011 (1) R.C.R. 381, has vehemently argued that in the event of rejection of the bail application, time spent in jail during the trial, cannot be restored to the Petitioner-accused, if ultimately accused-Petitioner is acquitted by the Trial Court. He has further argued that trial shall take some time to be concluded and there is no likelihood to conclude the trial in near future.

Order-sheet 01.04.2011 reveals that on 01.04.2011, learned Counsel for the Respondent, on instructions from ASI Janak Raj, stated that out of total 10 witnesses, four have been summoned for 05.04.2011.

3. On being asked, Mr. K.D. Sachdeva, learned Additional Advocate General, Punjab, on the instructions of ASI Janak Raj, states that despite of service of summon on the Investigating Officer, he failed to appear before the Trial Court on 05.04.2011 for his statement, therefore, warrants have already been issued against the Investigating Officer. He has further stated that other witnesses could not be served, hence could not be examined on the date fixed.

4. In the opinion of this Court, if there is no likelihood to conclude the trial in near future, then as per the dictum of the Hon"ble Apex Court in the matter of State of Kerala (supra), Petitioner is entitled to be enlarged on bail.

5. Considering the totality of the facts and circumstances of the case, present petition is allowed. Let, Petitioner be released on bail to the satisfaction of the learned Trial Court.