

CRM-M-63537-2024**BALWINDER SINGH @ BILLA VS. STATE OF PUNJAB**

Present: Mr. Arnav Ghai and Mr. Kulmanbir S. Nagra, Advocates
for the petitioner.

Mr. Shiva Khurmi, Assistant Advocate General, Punjab.

Learned counsel for the petitioner contends that the petitioner deserves to be granted the concession of bail due to the inordinate delay in the trial, which has come to a virtual standstill after the framing of charges on 07.06.2024.

While drawing the attention of this Court to the zimni orders, which have been placed on record today, it has been submitted that it is evident that the trial has been stalled for two primary reasons:

- (i) the repeated and unjustified failure of the jail authorities to produce the accused, including the petitioner and co-accused before the trial Court on scheduled dates;
- (ii) and the absence of prosecution witnesses on certain dates, preventing the recording of evidence.

Learned counsel for the petitioner argues that these delays are wholly attributable to the prosecution and the jail authorities. It is further submitted that the petitioner has been in custody since 14.09.2023, and his prolonged incarceration, without progress in the trial, amounts to a gross violation of his fundamental right to a speedy trial and personal liberty.

Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite has not disputed the custody period of the petitioner nor has the learned State counsel, on instructions from S.I. Nivritpal Singh, disputed that none of the 31 witnesses cited by the prosecution have been examined so far; on further instructions, it has also

not been disputed that the petitioner and the co-accused had not been produced by the jail authorities on the scheduled dates before the trial Court. However, it has been asserted by the learned State counsel that it was only on one date of hearing that the prosecution witnesses had not appeared before the trial Court to get their evidence recorded.

This Court is deeply concerned and dismayed over the repeated failure of the jail authorities to produce the petitioner and co-accused before the trial Court on the scheduled dates. This without doubt constitutes a serious breach of the constitutional rights of the petitioner.

The petitioner is alleged to have been found in possession of 400 grams of heroin along with his co-accused, who were allegedly found in possession of an additional 1200 grams of heroin, following a secret information. It is unacceptable that, despite the prolonged custody of the petitioner, the trial has been derailed due to the persistent lapses of the jail authorities. This Court will not countenance such dereliction of duty, which undermines the judicial process and obstructs the constitutional rights of the petitioner to an expeditious trial.

The Additional Director General of Police (Prisons), Punjab, is directed to file a comprehensive affidavit, explaining in detail the reasons for the repeated non-production of the accused/petitioner on the schedule dates of hearing before the trial Court. The jail authorities need to be reminded that their obligation to produce the accused before the trial Court on fixed dates is not optional but an inviolable duty.

Adjourned to 27.01.2025.

January 7th, 2025
Puneet

(MANJARI NEHRU KAUL)
JUDGE