

BA 172-2021 State vs Sukhchain Singh
CNR No.PBFZAI-001436-2021

FIR No.97 dated 20.08.2014
U/S 379 of IPC & 21(3) Mines and Minerals Act
Police Station Mallan Wala

Present: Sh. Rajan Lamba, Advocate for accused/applicant
Sukhchain Singh.
Ld. APP for the State

Reply not filed by the State.

Heard. The Learned defence counsel has argued that accused is in judicial custody for long time and is no longer required for interrogation by police and therefore accused deserves to be released on bail. This contention of Ld defence counsel is not tenable because the **Hon'ble Supreme Court in Rajesh Ranjan Yadav @ Pappu Yadav vs CBI through its Director 2007(1) R.C.R.(Criminal) 166 : 2006(3) Apex Criminal 700 : 2007 AIR (SC) 451** observed that there is no absolute and unconditional rule about when bail should be granted by the Court and when it should not and it all depends on the facts and circumstances of each case and it cannot be said there is any absolute rule that because a long period of imprisonment has expired bail must necessarily be granted. Further the **Hon'ble Supreme Court has held in Pramod Kumar Saxena v. Union of India and others, 2008 (63)ACC 115:2008(4) R.C.R.(Criminal) 351:2008 CriLJ 4697**, that mere long period of incarceration in jail would not be per se illegal. If the accused has committed offence, he has to remain behind

bars. Such detention in jail even as an under trial prisoner would not be violative of Article 21 of the Constitution of India.

The Hon'ble Supreme Court in case Kalyan Chandra Sarkar vs Rajesh Ranjan @ Pappu Yadav 2004(2) R.C.R.(Criminal) 254 : 2004(2) Apex Criminal 553 observed that the nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence is one of the factors which is to be taken into consideration before granting bail.

Police record perused. The present FIR was registered against the above said accused and after this accused was declared proclaimed offender by the learned Court on dated 15.11.2017. There is likelihood that accused may abscond if released on bail again. Bail is a matter of discretion and not right of the accused. Although, the court has to exercise this discretion in the judicious manner, but no person can be allowed to take courts for granted. Accordingly, I do not find any justification in granting bail to accused Sukhchain Singh and the same is dismissed.

Papers be attached with the FIR.

Date of Order:-16.08.2021

Manju Bala
Stenographer-III

(Anshuman Siag),
Judicial Magistrate Ist Class
Zira/(UID No.PB 0661)