

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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CRM-M No.43773 of 2014

Date of Decision:10.02.2015

Rakesh Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE MEHINDER SINGH SULLAR.

**Present: Mr.Raj Kumar Gupta, Advocate,
for the petitioner.**

**Mr.Jaspreet Singh Sekhon, Assistant Advocate General,
Punjab, for the respondent-State.**

MEHINDER SINGH SULLAR, J.(oral)

The petitioner has preferred the instant petition for the grant of concession of regular bail, in a case registered against him along with his other main co-accused, namely, Anil Vasudeva, Gopal Krishan, Parveen Kumar, Jagdish Singh and Tarsem Lal etc., vide FIR No.73 dated 28.06.2013, on accusation of having committed an offence punishable under Section 22 of The Narcotic Drugs & Psychotropic Substances Act, 1985(hereinafter to be referred as “the NDPS Act”), by the police of Police Station Banur, District Patiala.

2. Notice of the petition was issued to the State.

3. Having heard the learned counsel for the parties, having gone through the record with their valuable assistance and after bestowal of thoughts over the entire matter, to my mind, the present petition for regular bail deserves to be accepted in this context.

4. Precisely, the prosecution, *inter alia*, claimed that on 26.06.2013, in the wake of raid, narcotic drugs were recovered from the Truck being driven by main accused Jagdish Singh, Driver and Tarsem Lal, Conductor. Neither the name of the petitioner is mentioned nor any specific role is attributed to him in the FIR. Moreover, nothing was recovered from his possession on the relevant date at the spot. The petitioner was subsequently involved in this case, in pursuance of the statement of his co-accused Jagdish Singh. Learned State Counsel on instructions from ASI Gurdeep Singh, the investigating officer, has fairly acknowledged that there is no other evidence available on record against the petitioner, except the indicated statement of his co-accused. In that eventuality, what is the evidentiary value, admissibility and acceptability of such pointed statement of the co-accused, relatable to the case of the petitioner, *inter alia*, would be a moot point to be decided after receipt of evidence of the parties during the course of trial by the trial Court.

5. Be that as it may, the petitioner was arrested in this case on 15.10.2013. Since then he is in judicial custody and no useful purpose would be served to further detain him in jail. There is no history of his previous conviction in any other criminal case. Since, not even a single witness has yet been examined by the prosecution, so, the final conclusion of trial will naturally take a long time.

6. Not only that, Anil Vasudeva, main co-accused of the petitioner, was granted the concession of regular bail, by way of order dated 24.01.2014(Annexure P-3) in CRM-M No.40745 of 2013 by a Coordinate Bench(Mahavir S.Chauhan, J.). Sequelly, Gopal Krishan and

Parveen Kumar, similarly situated co-accused of the petitioner, were allowed bail by means of order dated 11.12.2014(Annexure P-5) in CRM-M No.39647 of 2014 and order dated 03.11.2014(Annexure P-6) in CRM-M No.34456 of 2014 by this Court. Therefore, I see no reason not to extend the same benefit of regular bail to the present petitioner as well under the similar set of circumstances.

7. In the light of aforesaid reasons, taking into consideration the peculiar facts & the special circumstances, emanating from the record, as discussed here-in-above and without commenting further anything on merits, lest it may prejudice the case of either side during the course of trial of the main case, the instant petition for regular bail is hereby accepted. The petitioner is ordered to be released on bail on his filing a specific affidavit to the effect that he will not indulge in any such illegal activities in future and on his furnishing adequate bail bonds and surety bonds to the satisfaction of the trial Court.

Needless to mention that, nothing observed here-in-above, would reflect, on merits in the trial of the main case, in any manner, as the same has been so recorded for a limited purpose of deciding the present petition for regular bail.

February 10, 2015
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(MEHINDER SINGH SULLAR)
JUDGE