

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-12220-2016

Date of Decision: 10.08.2016

Mukesh Kumar

...Petitioner

VERSUS

State of Punjab

....Respondent

**CORAM : HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDIP AHLUWALIA**

Present:- Mrs. G.K.Mann, Advocate for the petitioner.

Ms. Reeta Kohli, Addl. AG Punjab with
Mr. Hanspal Virk, AAG Punjab.

SUDIP AHLUWALIA, J.

This is the second bail petition of the petitioner under section 439 of the Cr.PC in FIR No.50 dated 3.4.2013, under sections 18, 21 and 22 of the Narcotic Drugs & Psychotropic Substances Act (for short “NDPS Act”), 1985 and Sections 25 of the Arms Act & 489 IPC registered at Police Station City Urban Estate, Patiala. Although not named in the FIR, he was arrested in the aforesaid case on 9.11.2013. It may be mentioned that a similarly situated co-accused, namely Dilbagh Singh alias Bagha was granted bail by the Division Bench, of which, one of us (Surya Kant, J.) was a member in, CRM-M-16563 of 2015 on 7.10.2015. The present petitioner's first bail petition was, however, rejected on 19.12.2015 in CRM-M-38668-2015 by the Division Bench, which had especially taken note of the fact that apart from the present case, five other FIRs were registered against the

petitioner. Three of those FIRs were registered in relation to offences under the provisions of IPC. He is reported to have since been acquitted in the case arising out of FIR No.235 dated 5.11.2010 under Sections 498-A and 406 IPC of Police Station City Kotkapura. He has been sentenced in another case arising out of FIR No.51 dated 29.7.2008 under sections 379 and 411 IPC of Police Station Sohana, while FIR No.19 dated 15.6.2010 under sections 420 & 406 IPC of Police Station Samalsar continues to remain pending. The other two cases noted in the earlier order, being FIR No.57 dated 4.3.2014 under section 18 of the NDPS Act of Police Station Tripuri (Patiala) and a similar NDPS Act case being FIR No.260 dated 30.10.2015 of Police Station City Samalsar were admittedly registered long after the petitioner was already in detention in connection with the present case.

2. It has further been ascertained that the trial in the present case has not commenced. Even the charges have not been framed after the submission of the challan more than two years ago on 23.6.2014 for various reasons. Those reasons have been set out in detail in the status report by way of affidavit filed by Shri Harpal Singh, PPS, Deputy Superintendent of Police City-1, Patiala on 30.5.2016, the perusal of which, goes to show that the delay in commencement of trial can by no means be attributed to the petitioner at any stage. He has by now remained in custody for almost two years and nine months without the trial having commenced. The co-accused in the case are on bail, and considering that he has been implicated in the other NDPS Act cases started long after his actual apprehension and detention, we are of the view that the bar under section 37(1) of the NDPS Act in his case would not be effectively attracted.

3. For the aforesaid reasons, the petitioner is now ordered to be

released on bail subject to such terms & conditions as might be deemed and proper by the learned trial Court.

(Surya Kant)
Judge

(Sudip Ahluwalia)
Judge

August 10 ,2016
AS

Whether speaking/reasoned : ***Yes/No***
Whether Reportable : ***Yes/No***