

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

**CRM-M-32079-2018
Date of decision: 06.08.2018**

Prithipal Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Vineet Chaudhary, Advocate for the petitioner.

Mr. Sidakmeet Sandhu, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

This is the second petition, filed under Section 439 of the Code of Criminal Procedure, for grant of regular bail to the petitioner in case FIR No. 86 dated 21.06.2014, registered under Section 15/61/85 of the NDPS Act at Police Station Payal, Police District Khanna, District Ludhiana.

Learned counsel for the petitioner submitted that the petitioner was earlier granted interim bail awaiting the report of FSL which was received by the trial Court on 07.05.2015, however, till 08.09.2017, i.e. for a period of more than two years, the petitioner remained on interim bail and it came to the notice of the trial Court only when the petitioner absented on 08.09.2017 that the petitioner was not on regular bail and was granted interim bail awaiting the report of the Chemical Examiner. Thereafter, the trial Court, noticing the said fact for the first time, cancelled the bail/surety bonds of the petitioner and issued non-bailable warrants. Thereafter, the petitioner filed CRM-M-35861-2017, in which the following order was passed on

13.10.2017:

“Heard forthwith with consent of counsel for the rival parties.

In FIR No.86 dated 21.06.2014 registered under Section 15/61/85 at Police Station Payal, Police District Khanna, District Ludhiana, the petitioner seeks anticipatory bail.

It is not in dispute that the petitioner was arrested and was thereafter released on interim bail awaiting the report from the Chemical Examiner. The report was received on 07.05.2015. Thereafter the matter came up before the trial Court on 08.09.2017 when the petitioner was not present before the Court and no intimation was given by the petitioner to the Court. In other words, though the chemical report was received on 07.05.2015, the Court noticed the same for the first time on 08.09.2017 and having found the petitioner absent it cancelled his bail bonds and issued non-bailable warrants by forfeiting the bail bonds furnished by the petitioner.

In my opinion, the following order would subserve the interest of justice:

ORDER

- (i) CRL. MISC. No.M-35861 OF 2017 is partly allowed.
- (ii) Petitioner shall be released on bail in this FIR by the trial Court to its satisfaction for a period of six weeks from today.
- (iii) In the meanwhile, the petitioner shall be entitled to apply for regular bail before the trial Court which shall peruse the chemical examiner report and dispose of the regular bail application on its own merits in accordance with law.”

The petitioner did not surrender before the trial Court and filed his second application for bail i.e. CRM-M-5201-2018, which was withdrawn by him with liberty to surrender before the trial Court and apply for the regular bail in compliance with the order dated 13.10.2017.

Learned counsel for the petitioner submits that the petitioner has surrendered before the trial Court on 10.07.2018 and thereafter, he

applied for regular bail which has been declined.

Learned counsel for the petitioner has further submitted that from 17.03.2015 till 08.09.2017, the petitioner was on interim bail and he has not misused the concession of regular bail and he is not involved in any other case. It is also submitted that the conclusion of the trial is likely to take a long time as only two prosecution witnesses have been examined so far and petitioner not a previous convict or facing trial in any case under the NDPS Act.

Learned State counsel has filed custody certificate and as per the custody certificate, the petitioner was on interim bail as noticed above and has undergone actual period of 09 months and 15 days as on today and he is not involved in any other case.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the facts that petitioner remained on interim bail for more than two years and has not misused the concession of bail during that period; he is not involved in any other case, prior or subsequent to registration of the present FIR; he is in judicial custody since 10.07.2018 and also in view of the fact that conclusion of the trial is likely to take some time, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaqa Magistrate, concerned.

August 06, 2018

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

*Whether speaking/reasoned
Whether reportable*

*Yes/No
Yes/No*