

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

Crl. Misc. No.M-10998 of 2019

Date of Decision:- 17.09.2019

Avtar Singh @ Tari

....Petitioner

vs.

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE SUDHIR MITTAL

Present:- Mr. Rahul Bhargava, Advocate,
for the petitioner.

Mr. Ayush Sarna, AAG, Punjab.

SUDHIR MITTAL, J. (Oral)

This is the second petition for grant of regular bail in FIR No.09 dated 1.6.2015 registered at Police Station SSOC, District Amritsar, under Sections 21, 25, 29 of the NDPS Act, 1985, under Section 307 IPC, under Sections 25, 54, 59 of the Arms Act, 1959, under Sections 3, 34, 20 of Indian Passport Act, 2008 and Section 14 of the Foreign Act, 1946.

The FIR came to be registered as the police got information that the petitioner and his co-accused smuggle drugs, arms & ammunition and fake currency from Pakistan into India. On the basis of secret information, a raid was conducted by the police party and the co-accused were arrested. Petitioner succeeded in running away from the spot. Recovery of ₹ 65 lacs, in cash, was made apart from 2 kilos and 500 grams of heroin, .315 bore rifle along with 5 cartridges, .32 bore pistol along with 5 cartridges and a Pakistani mobile phone etc. were also recovered.

Learned counsel for the petitioner submits that the petitioner

was arrested on 22.5.2017 and has been in custody since then. He has been falsely implicated and the reason there for is that he was falsely implicated in two other cases also under the NDPS Act, 1985. In those cases as well, the petitioner was arrayed as an accused with the aid of Section 29 of the NDPS Act, 1985 and no recovery was actually made from him. The petitioner has been in custody for over two years now but the trial is not likely to be concluded at an early date as in the last six months, no further progress has been made. Thus, the petitioner deserves to be granted regular bail.

Learned State counsel submits that the petitioner is involved in a very serious offence. Co-accused have already been convicted and are serving their sentence. The fact that the name of the petitioner figures in two other FIRs under the NDPS Act, 1985, shows that he is a habitual criminal. Evidence of PW-4 is in progress and the next date of hearing is 24.9.2019. In view of all these facts, the bail application be dismissed.

A perusal of the file shows that on 14.5.2019, it was recorded that three PWs still remained to be examined, out of a total of 6 PWs. Today, a period of over four months has elapsed and the stage of the trial is substantially the same as only the 4th PW has been partially examined. The petitioner has been in custody for about 2 years and 4 months as on date but at the pace at which the trial is proceeding, it does not appear that the same can be concluded within a short period of time. The petitioner has not been convicted for any offence earlier and the factum of pendency of two other FIRs against him cannot work to his prejudice. The liberty of an individual cannot be curtailed indefinitely and, thus, I deem it appropriate to allow this petition.

The petition is accordingly allowed and it is directed that the petitioner be released on bail, on his furnishing bail and surety bonds to the satisfaction of the trial Court. The petitioner shall, however, report to the concerned police station after every two weeks and spend one hour there.

September 17, 2019
poonam

(SUDHIR MITTAL)
JUDGE