

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

CRM-M-32710-2019
Date of decision: 20.11.2019

Pardeep Kumar @ Deepu

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Ms. Neetu Singh Aashat, Advocate
for the petitioner.

Mr. Jagmohan Ghuman, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 188 dated 05.09.2018, registered under Section 22 of the NDPS Act, 1985 Act at Police Station Nakodar Sadar, District Jalandhar.

Learned counsel for the petitioner submits while granting concession of regular bail to co-accused Munish Kumar, the following order was passed by this Court on 24.05.2019 in CRM-M-22877-2019:

“Learned counsel for the petitioner submits that the petitioner was earlier granted interim bail awaiting the FSL report vide order dated 31.10.2018 passed in CRM-M-47285-2018 and on receiving the FSL report, the petitioner has surrendered before the trial Court. Learned counsel for the petitioner further submits that as per allegations in the FIR, the petitioner along with co-accused Pradeep Kumar were apprehended and a joint consent memo of both the accused persons was recorded by the police in compliance of Section 50 of NDPS Act,

which is not correct procedure as per judgment of the Hon'ble Supreme Court in ***State of Rajasthan Vs. Parmanand and another, 2014 (2) RCR (Crl.) 40*** and therefore, it is to be decided during the course of trial whether proper procedure was followed or not. It is further submitted that the petitioner is in custody for the last 05 months and 19 days and is not involved in any other case. Learned State counsel has filed the custody certificate dated 23.05.2019 filed in the Court today and on instructions from ASI Harbhajan Singh, has submitted that a joint consent memo was recorded but has not disputed the fact that the petitioner is not involved in any other case. Without commenting anything on merits of the case, considering the aforesaid arguments raised by learned counsel for the parties, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bond to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.”

Learned counsel for the petitioner further submits that even the petitioner was granted concession of interim bail awaiting the FSL report and thereafter, on receipt of the FSL report, the petitioner surrendered on 02.02.2019 and since then, he is in judicial custody.

Learned counsel for the petitioner further submits that the petitioner is not involved in any other case and conclusion of the trial is likely to take some time.

Learned State counsel, on instructions from the Investigating Officer, has not disputed the factual position.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering

the fact that the petitioner is in judicial custody since 02.02.2019; he was earlier granted concession of interim bail awaiting the report of FSL; co-accused has already been granted concession of regular bail as noticed above and also in view of the fact that conclusion of the trial is likely to take a long 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 concerned.

20.11.2019

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No