

219

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-41024-2018
Date of decision-14.01.2019

Kuldeep Singh

....Petitioner

Vs.

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Ms. Taranjit Kaur Hundal, Advocate for the petitioner.

Mr. Bhupender Beniwal, AAG, Punjab.

MANOJ BAJAJ, J.

Petitioner-Kuldeep Singh son of Harbhajan Dass has filed this petition under Section 439 of Code of Criminal Procedure for grant of regular bail pending trial in case FIR No.184 dated 24.06.2017 under Section 22 (later on added Section 29) of Narcotic Drugs and Psychotropic Substances Act, 1985 Act (61 of 1985) (in short 'NDPS Act') at Police Station Nakodar Sadar, Jalandhar.

It is mentioned in paragraph 2 of the petition that the petitioner was taken into custody on 24.06.2017.

Learned counsel for the petitioner has argued that on 13.09.2017 (Annexure P-2), the petitioner was released on interim bail as the report of the chemical examiner (FSL report) was not received in respect of contraband allegedly recovered. Later on challan was presented against the

accused along with Chemical Analysis Report. The interim bail granted vide order dated 13.09.2017 was cancelled on 09.02.2018.

During the pendency of the petition before this Court, it was noticed that charges against the petitioner were framed in February, 2018. However, no witness was examined by the prosecution. This Court on 04.10.2018 granted interim bail to the petitioner and the order reads as under:-

“It is contended by Ld. Counsel for the petitioner that her client has been motivately framed by the police in the present case, as can be seen from the fact that less than two hours before drawing up of the present FIR, an earlier FIR No.183 of the same date in the same police station was drawn up against the petitioner's own wife for some other offences under the NDPS Act, in which even the alleged place of occurrence was nearby to the place where the present petitioner was purportedly arrested.

The petitioner's wife is stated to have been released on bail since the alleged recovery from her was of non-commercial quantity. The present petitioner has remained in detention for more than one year now and not even a single witness from the prosecution has so far been examined, although the charges were framed almost eight months ago in February of this year. There is no record of his involvement in any other case under the NDPS Act.

In the given circumstances, at this stage, the petitioner may be released on an interim bail to the satisfaction of the Ld. Trial Court subject to imposition of appropriate precautionary conditions. The Ld. Trial Court is directed

to send up an explanation, as to why evidence from the prosecution side could not be commenced for eight months after framing of charges.

To come up for further hearing on 12.12.2018.”

Pursuant to the above order, a report dated 03.12.2018 was received from Additional District and Sessions Judge, Jalandhar wherein cause of delay is non-execution of process of summons,ailable warrants upon the witnesses and laxity on the part of Process Serving Agency of prosecution.

In view of the above report, the delay is on the part of the prosecution itself.

Later on 21.12.2018, the order was modified by extending the concession of interim bail in respect of offence under Section 29 of NDPS Act which was added later on. Learned counsel for the petitioner has argued that it is already recorded by the Court in its order that there is no other case against the petitioner and the concession of interim bail granted to him so far on different stages have never been misused.

On the other hand, learned State counsel has opposed the bail application on the ground that the petitioner is accused of having in his possession the commercial quantity of contraband 125 gram intoxicant powder containing alprazolam. However, it is not disputed that the petitioner never misused the concession and has not indulged in any other similar offence.

Considering the order dated 04.10.2018 as well as report,

whereby concession of interim bail stood granted to the petitioner, it will be inappropriate at this stage to send him in custody again, as the trial is likely to consume considerable time. Therefore, without meaning any expression of opinion on the merits of the case, the concession of interim bail granted vide order dated 04.10.2018 is made absolute.

The petition is allowed.

14.01.2019

vanita

(MANOJ BAJAJ)
JUDGE

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