

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

204

CRM-M-13253-2020

Date of decision: 10.06.2020

Emeka Eketchi Okalia @ Sunday @ Chimeka IketchiPetitioner

Versus

State of PunjabRespondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Arjun Veer Sharma, Advocate for the petitioner.

Mr. Amit Mehta, Sr. D.A.G., Punjab for the respondent.

ARUN KUMAR TYAGI, J (ORAL)

The case has been taken up for hearing through video conferencing.

The petitioner has filed the present (first) petition under Section 439 of the Code of Criminal Procedure, 1973 (for short, "the Cr.P.C.") for grant of regular bail in case FIR No.206 dated 03.09.2018 under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "the NDPS Act") registered at Police Station Samrala, Police District Khanna, District Ludhiana.

As per the prosecution version, the petitioner was apprehended on suspicion by the police party headed by ASI Amrik Singh and on search as per the prescribed procedure recovery of 2 kgs of heroin, 15 kgs of cocaine and 18 gms of ICE drug was made from the bag carried by the petitioner. Since the police could not submit the report under Section 173 (2) of the Cr.P.C. within the prescribed time, the petitioner was admitted to bail under Section 167 (2) of the Cr.P.C. vide order dated 06.03.2019. However, on subsequent non-appearance his bail order was cancelled vide order dated 24.09.2019. The

petitioner being in custody has filed the present petition for grant of regular bail.

Learned State counsel has appeared and opposed the bail petition.

I have heard learned counsel for the petitioner and learned State counsel and gone through the relevant record.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case. The petitioner was granted bail under Section 167(2) of the Cr.P.C. by the learned trial Court vide order dated 06.03.2019 which was cancelled vide order dated 24.09.2019 but the petitioner was in custody on that date in some other case and his absence was due to reasons beyond his control and was not deliberate and intentional. The trial is likely to take long time. The petitioner is ready to abide by the terms and conditions regarding his appearance. Therefore, the petitioner may be granted regular bail.

On the other hand learned State counsel has vehemently opposed the petition and submitted that the petitioner absented during trial and misused the concession of bail. The petitioner is likely to abscond if granted regular bail. Therefore, the petition may be dismissed.

The petitioner was granted bail under Section 167(2) of the Cr.P.C. vide order dated 06.03.2019. The petitioner could not appear on 08.07.2019 due to noting down of wrong date of hearing. The trial Court issued notice but the petitioner could not appear due to his arrest in case FIR No.0167 dated 13.08.2019 under Section 21 of the NDPS Act registered at Police Station Gobindgarh Mandi, District Fatehgarh

Sahib on 18.08.2019 and the petitioner was granted bail in that case by Coordinate Bench of this Court vide order dated 27.01.2020. His bail order in the present case was cancelled vide order dated 24.09.2019 on the ground of non-appearance but the petitioner was in custody on that date in the above mentioned other case and his absence in the present case cannot be said to be deliberate and intentional and the petitioner cannot be said to have absconded and misused the concession of bail.

Keeping in view the facts and circumstances of the case particularly the fact that the trial is likely to take long time due to restrictions imposed to prevent spread of infection of Covid-19 but without meaning to comment on merits, I am of the considered view that the petitioner deserves the concession of regular bail.

Therefore, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of personal bail bond with bond of one surety to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

However, the petitioner is granted regular bail subject to the condition that he shall not commit any similar offence and in case of commission of similar offence by him in future his bail in the present case shall also be liable to be cancelled on application to be filed by the prosecution in this regard.

10.06.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No