

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

**CRM-M No.40433 of 2019 (O&M)
Decided on: 20.07.2020**

Jatinder Singh @ Sonu

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Sandeep Sharma, Advocate
for the petitioner (through video conferencing)

Mr. Joginder Pal Ratra, DAG, Punjab.
(through video conferencing)

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.92 dated 20.06.2016, for offence punishable under Sections 307, 148, 149 of the Indian Penal Code, 1860 (in short 'IPC'), 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') and 25 of the Arms Act, 1959, registered at Police Station Sadar Phagwara, District Kapurthala.

Counsel for the petitioner has argued that as per the allegations in the FIR, the police party apprehended the petitioner and the other accused and they started firing on them. Thereafter, the police recovery 350 gms of Heroin with .32 bore pistol and some live cartridges. Counsel for the petitioner has also submitted that the petitioner is in custody for the last 04 years and 15 days and out of 24 prosecution witnesses, only 10 PWs have been examined so far.

Counsel for the petitioner has relied upon the order dated

09.11.2017 passed by this Court in CRM-M No.31615 of 2017 vide which Sukhvir Singh @ Sukha (co-accused of the petitioner) has been granted the concession of regular bail. The operative part of the said order reads as under:-

“Learned counsel for the petitioner seeks regular bail for the petitioner on principle of parity, as other co-accused namely Ginda @ Gurvinder Singh, Harvinder Singh @ Binda and Miyank Chopra @ Minni Chopra, who were also arrested in this case and other similar cases pending against them, have been allowed regular bail vide order dated 31.05.2017 passed in CRM-M-4995-2017, dated 15.09.2016 passed in CRM-M-32061-2016 and dated 27.09.2016 passed in CRM-M-32622-2016 respectively.

Learned State counsel submits that the petitioner is involved in three other cases and recovery of 300 gram of Charas which falls in noncommercial quantity was effected from his possession.

The petitioner was arrested on 20.06.2016 and since then he is in custody. Other accused from whom the recovery of weapon has been effected with similar allegations except the offence under the NDPS Act have been allowed regular bail. Recovery of contraband from the petitioner is of non-commercial quantity.”

Counsel for the State has filed the Custody Certificate today in the Court and as per the Custody Certificate, though the petitioner is involved in some other cases and is on bail in some of the case, the fact remain that the petitioner, in the present FIR, is in custody for the last more than 04 years and the case is still at the stage of recording the evidence of the prosecution.

Without commenting anything on merits of the case,

considering the fact that the petitioner is in custody for the last more than 04 years; out of 24 prosecution witnesses only 10 PWs have been examined; the co-accused of the petitioner has already been granted the concession of regular bail and the conclusion of the trial will take long time, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

20.07.2020	(ARVIND SINGH SANGWAN)
<i>yakub</i>	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No