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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.36688 of 2020 (O&M)
Decided on: 18.01.2021

Satnam Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. K.S. Dhillon, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this 2nd 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.0110 dated 29.05.2017, for offence punishable under Sections 17/18/19/20/38 of the Unlawful Activities Act and 25/54/59 of the Arms Act registered at Police Station Phase-I, Mohali.

The earlier one was dismissed as withdrawn on 14.11.2018.

Counsel for the petitioner has submitted that the new ground for filing this 2nd petition is that the co-accused of the petitioner have already been released on bail.

Counsel for the petitioner has relied upon the order dated 06.01.2021 passed in CRM-M No.33656 of 2019, vide which one of the co-accused of the petitioner namely Amritpal Kaur @ Amrita, was granted the concession of regular bail, by passing the following order:-

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“Counsel for the petitioner has argued that the petitioner is a lady and is in custody since 29.05.2017 and she is not involved in any other case. Counsel for the petitioner has relied upon certain orders vide which the co-accused of the petitioner, have already been granted the concession of regular bail.

Counsel for the petitioner has submitted that vide order dated 08.10.2020 passed in CRM-M No.28701 of 2020, the co-accused of the petitioner namely Ramandeep Singh @ Sunny was granted the concession of regular bail. Similarly, another co-accused of the petitioner namely Jarnail Singh @ Kala was granted the concession of regular bail vide order dated 16.11.2020 passed in CRM-M No.36767 of 2020.

Counsel for the petitioner has further argued that another co-accused namely Parminder Singh was also granted the concession of regular bail vide order dated 19.11.2020 passed in CRM-M No.36615 of 2020. The operative part of the said order reads as follows:-

“Co-accused Ramandeep Singh @ Sunny has been granted regular bail vide order dated 08.10.2020 passed in CRM-M No.28701 of 2020. The aforesaid accused was granted bail despite his unsuccessful attempts on previous occasions when his bail was rejected on 03.04.2018, 16.01.2019, 06.09.2019. In the order dated 06.09.2019 passed in CRM-M No.35627 of 2019, the trial Court was directed to expedite the trial and try to conclude the same within a reasonable time by giving short adjournments. Thereafter, Amritpal Kaur @ Amrita filed CRM-M No.33656 of 2019 in which the High Court directed the SSP, SAS Nagar, Mohali to ensure that all the prosecution witnesses appear before the trial Court within a period of 30 days from 12.02.2020.

Perusal of the aforesaid order would show that only two prosecution witnesses were left to be examined on that date and the learned State counsel on instructions from SHO Manphool Singh undertook that the entire prosecution evidence would be concluded within a period of one month from that date. In that situation, the Co-

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ordinate Bench directed the SSP, Mohali to ensure that all the prosecution witnesses appear before the trial Court within a period of 30 days from 12.02.2020. Thereafter, CRM-M No.28701 of 2020 came to be filed by co-accused Ramandeep Singh @ Sunny. The first order was passed on 24.09.2020, thereby directing the State to place on record all the interlocutory orders passed by the trial Court from 12.02.2020 onwards till 22.03.2020.

In compliance of the aforesaid order, necessary interlocutory orders were placed on record. After perusing the interlocutory orders, this Court granted regular bail to coaccused Ramandeep Singh @ Sunny on the premise that the compliance of order dated 12.02.2020 passed in CRM-M No.33656 of 2019 was not made.

Perusal of order dated 12.02.2020 passed by the trial Court would show that DSP Gurvinder Singh was examined-in-chief partly and the case was adjourned to 19.02.2020 for his further examination-in-chief. Summons issued to PW Surjit Singh were received back duly served, but he did not appear in the Court. Bailable warrants were issued against three prosecution witnesses namely Surjit Singh, Parveen Arora and Ashutosh Kalia. On 19.02.2020, two prosecution witnesses were examined, but DSP Gurvinder Singh could not be examined as the Court time was over and the witness was bound down for 26.02.2020 i.e. the date on which he was examined-in-chief partly and for further examination-in-chief, the case was adjourned to 04.03.2020. On 04.03.2020, the aforesaid DSP was examined-in-chief partly and for further examination-in-chief, the case was adjourned to 18.03.2020.

The Court on the basis of letter dated 17.03.2020 issued by the High Court did not treat the case to be an urgent case and adjourned the case for 01.04.2020 for further examination of PW DSP Gurvinder Singh. Thereafter, no proceedings were undertaken by the trial Court.

Petitioner was arrested on 04.06.2017. One 9 mm pistol and two cartridges were recovered from him. In different criminal petitions, Co-accused Ramandeep Singh @ Sunny and Jarnail Singh @ Kala have been granted regular bail by this Court.

The factual position of the case could not be disputed by learned State counsel on instructions from ASI Jaswinder Singh.

Looking to the aforesaid facts and situation arising

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out due to COVID-19 pandemic and without adverting to the merits of the case, I deem it appropriate to enlarge the petitioner on regular bail.

In view of above, petition is allowed. Petitioner is ordered to be released on regular bail, subject to his furnishing heavy bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove, shall be construed to be an expression of any opinion on merits of the case.”

Counsel for the petitioner has also relied upon the order dated 23.12.2020 passed in CRM-M No.39459 of 2020 vide which the another co-accused of the petitioner namely Randeep Singh was granted the concession of regular bail noticing the fact that the aforesaid co-accused of the petitioner have already been released on regular bail.

Counsel for the State has submitted that only one witness i.e. Deputy Superintendent of Police, remains to be examined and the case before the trial Court is fixed for today for conducting the cross-examination of the said witness. It is also submitted that the case before the trial Court is at the fag end and therefore, the bail be not granted to the petitioner.”

Counsel for the petitioner has further submitted that the petitioner is not involved in any other case and he is in custody for the last more than 03 years and 05 months and still, one of the PW is yet to be examined.

Counsel for the State has not disputed the factual position but opposed the prayer for bail. It is further submitted that the cross-examination of the Deputy Superintendent of Police, remains to be concluded and the case is at the fag end.

Without commenting anything on merits of the case, considering the fact that the co-accused of the petitioner, have already

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been granted the concession of regular bail; the petitioner is not involved in any other case; he is in custody for the last more than 3½ years; the trial is still at the stage of recording the prosecution evidence and the conclusion of the trial will take some time due to COVID-19 situation, this petition is allowed and the petitioner is directed to be released on bail subject to her furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq 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.

(ARVIND SINGH SANGWAN)
JUDGE

18.01.2021

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Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No