

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

CRM-M-48175-2019 (O&M).
Date of Decision:-16.08.2021.

Hari Charan alias Pappu

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. J.K. Singla, Advocate for the petitioner.

Mr. Saurav Khurana, DAG, Punjab.

(Through Video Conferencing)

VIKAS BAHL, J. (Oral)

CRM-21561-2021

This is an application for placing on record the order dated 12.12.2019 granting regular bail to the co-accused. The said order is taken on record as Annexure P-10.

Application stands allowed.

CRM-M-48175-2019

This is the first petition filed by the petitioner under Section 439 Cr.P.C. for grant of regular bail in FIR No.172 dated 05.10.2019 under Section 188 IPC and Sections 6-A and 9-B of The Explosives Act, 1884 (Act No.4 of 1884) and Sections 3 and 4 of The Explosive Substances Act,

1908 (Act No.6 of 1908), registered at Police Station City-1, Mansa, District Mansa.

It has been submitted by the learned counsel for the petitioner that a Co-ordinate Bench of this Court *vide* order dated 19.11.2019 had granted interim bail to the petitioner. The said order is reproduced hereinbelow:-

“Learned counsel for the petitioner seeks some time to have instructions in the matter and to file an undertaking by the petitioner as well as his father.

Petitioner be released on interim bail till the next date of hearing on his furnishing adequate bail and surety bonds to the satisfaction of learned trial Court/Duty Magistrate concerned.

Let needful be done on or before the next date of hearing.

Adjourned to 25.11.2019.”

It has further been submitted that that the petitioner and his father had given an undertaking that they will not do any work relating with crackers in future. The said undertakings have been annexed as Annexures P-7 and P-8 with the petition. In view of the said undertakings, the interim order was continued and the matter came up before a Co-ordinate Bench of this Court on 06.07.2021, wherein, the following order was passed:-

“In a petition for regular bail this Court vide order dated 19.11.2019 had granted interim bail to

the petitioner till next date of hearing which was fixed as 25.11.2019. Thereafter, the interim bail is being continued till date. Since it is a petition for regular bail, it means that petitioner accused is in custody and his release there from is sought with petitioner on interim bail and not in judicial custody, the petition cannot be taken up for final decision. Under the circumstances, the petitioner is directed to surrender at District Jail, Mansa within 10 days from today and the intimation in that regard be given to this Court. His petition for regular bail would be taken up for hearing after his surrender in the jail.

To come up on 23.7.2021.”

In pursuance of the above order, the petitioner had surrendered on 15.07.2021 and the said fact has been noticed in the order dated 23.07.2021 and the case was adjourned for arguments.

Learned counsel for the petitioner has submitted that as per the allegations in the FIR, the main accused is Rama Nand and the said Rama Nand has also been granted regular bail *vide* order dated 12.12.2019 by the learned Additional Sessions Judge, Mansa and a copy of the said order has been annexed as Annexure P-10. It is further submitted that in fact, the father of the petitioner had a licence dated 29.10.1999 to possess and sell fire-works. It is also submitted that the petitioner is in custody for the last 02 months and 13 days. Challan has already been presented in the Court

and there are as many as 11 witnesses in the list of the prosecution witnesses and thus, the trial is likely to take time to conclude.

Learned State counsel has submitted that the licence of the father of the petitioner was valid up to 31.03.2018 and that the matter is fixed for framing of the charges on 03.09.2021. However, the factum of grant of regular bail to the father of the petitioner and also the period of custody undergone by the petitioner has not been disputed and in fact, the learned counsel has placed on record the custody certificate dated 13.08.2021, which is taken on record.

To rebut the arguments of the learned State counsel, learned counsel for the petitioner has further submitted that the father of the petitioner had applied for renewal of licence on 22.03.2019 (Annexure P-3) and the report of the Senior Superintendent of Police, Mansa (Annexure P-4) as well as that of the Sub Divisional Magistrate, Mansa (Annexure P-5) were there in favour of the petitioner. However, before the renewal application could finally be allowed, the present FIR was registered. It is submitted that in any case, the petitioner will be bound by the undertaking which he had given before this Court. Keeping in view all the facts and circumstances, stated above moreso, the fact that the main accused as per the prosecution has already been granted regular bail and the petitioner has already given an undertaking as directed by this Court and also that he is in custody since 02 months and 13 days and the challan has already been filed and since no prosecution witness has been examined and, thus, the trial is not likely to be concluded in the near future, this Court deems it appropriate

to grant regular bail to the petitioner.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned Illaqa Magistrate/Duty Magistrate/CJM concerned.

(VIKAS BAHL)
JUDGE

August 16, 2021.

sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.