

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

223

CRM-M-1709 of 2022
Date of Decision: 29.11.2022

Gaurav Singh @ Sawan @ Golu

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Ripudaman Singh Sidhu, Advocate,
for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.0112 dated 05.09.2021, under Sections 307, 333, 353, 186, 506 and 120-B and Section 25 of the Arms Act, 1959 registered at Police Station Sadar Moga, District Moga.

It has been submitted by the learned counsel for the petitioner that the petitioner has faced incarceration for about one year and one month in the present case and initially the petitioner was granted interim bail for a period of four months on 02.06.2022 which was later on extended for a period of one month and thereafter the petitioner has now surrendered before the jail authorities. He

submitted that it is a case where the petitioner was implicated only on the basis of disclosure statement of the co-accused that some cartridges were supplied by him through other co-accused namely Kanav Mahajan @ Kanu. He submitted that the petitioner had been in jail for the last more than five years in other cases and it was only on the basis of disclosure statement of the co-accused that the name of the petitioner was nominated and the petitioner being in jail for five years there was no chance for the petitioner to have supplied any cartridges and his name was nominated because he was earlier involved in some other cases due to which he has been falsely implicated in the present case. He submitted that a disclosure statement of a co-accused is not admissible in evidence and the investigation of the case has already been completed, although the charges have not been framed in the present case as of now. He submitted that although the petitioner is involved in some other cases as well but that itself cannot become a ground for denial of bail to the petitioner particularly in view of the fact that the other co-accused namely Kanav Mahajan @ Kanu and Gurmeet Singh @ Meen who are at parity with the present petitioner have been extended the benefit of regular bail by this Court in CRM-M Nos. 47219 and 52735 of 2021 on 10.01.2022. He further submitted that the allegation qua those two accused were also similar that they had supplied the cartridges to the main accused who have been apprehended in pursuance of the present FIR. He submitted that the petitioner is rather on bail in all the other cases in which he is involved and after the expiry of the interim bail granted by this Court he surrendered in time. He further submitted that in view of the aforesaid custody, he may be considered for the grant of regular bail since the trial of the case may take long time and even charges have not been framed till date.

On the other hand, Mr. Kunal Vinayak, learned AAG, Punjab has stated, on instructions from ASI Harjinder Singh, that it is correct that the petitioner is in custody for the last one year and one month, out of which he was granted inteirm bail by this Court for five months and thereafter he surrendered in time. He has however opposed the grant of bail to the petitioner on the ground that the petitioner is involved in number of other cases as well. So far as the bail granted to the other co-accused namely Kanav Mahajan @ Kanu and Gurmeet Singh @ Meen is concerned, he submitted that the petitioner would be at parity with the aforesaid two co-accused because the allegations against them were also with regard to supply of cartridges.

I have heard the learned counsel for the parties.

The petitioner is stated to be in custody from the last one year and one month, out of which for five months he was granted interim bail by this Court on medical ground and thereafter as per the learned counsel for the parties he has already surrendered and he is already on bail in all the cases in which he is stated to be involved. The name of the petitioner was nominated on the basis of disclosure statement of the co-accused at the time when he was already in continuous custody for five years and the allegation against the petitioner were with regard to supply of cartridges only. The other co-accused who are at parity with the petitioner namely Kanav Mahajan @ Kanu and Gurmeet Singh @ Meen have already been extended the benefit of regular bail by this Court and as per the learned counsel for the parties, the petitioner is at parity with the aforesaid two co-accused.

In view of the aforesaid facts and circumstances, the present petition is allowed. The petitioner shall be released on regular bail if not required in any

other case subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

(JASGURPREET SINGH PURI)
JUDGE

November 29, 2022
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Whether speaking	:	Yes/No
Whether reportable	:	Yes/No