

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

CRM-M-5017-2022 (O&M)

Date of decision : 01.06.2022

Shubham

... Petitioner(s)

Versus

State of Haryana

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. G.C. Shahpuri, Advocate for the petitioner.

Ms. Ambika Luthra, Addl. AG Haryana.

ALKA SARIN, J. (ORAL)

This is the third petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.254 dated 21.07.2020 under Sections 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Sadar Yamuna Nagar, District Yamuna Nagar. The earlier petitions filed by the petitioner being CRM-M-24134-2020 and CRM-M-15436-2021 were dismissed as withdrawn on 28.08.2020 and 08.10.2021, respectively.

Learned counsel for the petitioner would contend that the petitioner is a young boy of 23 years and has been in custody since 21.07.2020 and there is no other case pending against the petitioner. It is further the contention of learned counsel for the petitioner that the official witnesses in the present case have not been appearing before the Trial Court and despite the challan having been presented on 16.09.2020, out of 17

prosecution witnesses, only 1 witness has been examined. Learned counsel for the petitioner would further contend that a perusal of the *zimni* orders, which have been annexed with the status report, clearly reveal that the Trial Court had issued bailable warrants against the official witnesses since they are not turning up for getting their statements recorded.

Per contra, learned counsel for the State has stated that two earlier petitions filed by the petitioner being CRM-M-24134-2020 and CRM-M-15436-2021 were dismissed as withdrawn on 28.08.2020 and 08.10.2021, respectively. There is no ground for grant of regular bail to the petitioner keeping in view the quantity recovered from the petitioner. However, learned counsel for the State is not in a position to deny the fact that despite the challan having been presented on 16.09.2020, out of 17 prosecution witnesses, only 1 witness has been examined and that the petitioner has been in custody since 21.07.2020 and that there is no other case pending against the petitioner.

Heard.

In the present case, despite the challan having been presented on 16.09.2020, out of 17 prosecution witnesses, only 1 witness has been examined. *Zimni* orders placed on record today along with the status report by way of an affidavit of Subhash Chand, HPS, Deputy Superintendent of Police, Yamuna Nagar reveal that since none of the official witnesses were coming forward to get their statements recorded, bailable warrants had to be issued and despite that no official witness has been examined till date. Rather, order dated 27.04.2022 reveals a pitiable state of affairs that despite

bailable warrants having been received back duly executed, none of the witnesses appeared and an adjournment was sought. The petitioner is a young boy of 23 years and has been in custody since 21.07.2020. There is no other case pending against the petitioner. The conclusion of the trial is likely to take some time.

In view of the above-mentioned circumstances, detention of the petitioner would not serve any useful purpose. Without commenting upon the merits of the case, I deem this to be a fit case to grant the concession of regular bail to the petitioner. The petitioner is directed to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Illaqa Magistrate/Duty Magistrate/Trial Court concerned.

However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

Disposed off. Pending applications, if any, also stand disposed off.

A copy of this order be sent to the Inspector General of Police, Haryana to take appropriate action against the erring officials who have not been appearing before the Court below for getting their statements recorded.

01.06.2022
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO