

204

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.4956 of 2022 (O&M)

Date of decision: 20.12.2022

Tarsem Singh @ Sheru

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Ms. Mukta Mahesh, Advocate
for Mr. Ankur Jain, Advocate
for the petitioner.

Mr. Shubham Kaushik, DAG, Punjab.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this 3rd 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.44 dated 21.06.2019, registered under Section 21 of the Narcotic Drugs and Psychotropic Substances Act (in short 'the NDPS Act') at Police Station Valtoha, District Tarn Taran.

The new ground for filing this petition is that the petitioner stands acquitted in two of the cases and he is also granted bail in one pending case and he is in custody for the last 03 years and 06 months and out of 08 PWs only 01 PW has been examined.

A perusal of the order dated 13.01.2021, vide which the first application of the petitioner was dismissed, shows that it was observed that since the custody of the petitioner is only 01 year and 06 months, the prayer for bail was declined.

Brief facts of the case are that as per the allegations in the FIR, the police party, which was on a petrol duty, stopped the petitioner, who was coming on a motorcycle and on seeing the police party, the petitioner has thrown away the polythene bag towards the fields and tried to escape, however, he was apprehended by the police and informed that the bag was containing Heroin and after weighing the same, 260 gms of Heroin was recovered. It is also submitted that even if it was a case of chance recovery, however at no point of time, the information was sent to the Police Station before conducting further investigation, after the petitioner has allegedly informed the police that the polythene bag is containing Heroin and the proceedings were undertaken by the same Investigating Officer. Lastly, it is submitted that out of 07 PWs, only 01 PW has been examined so far though the charges were framed in the year 2019, however, the trial was substantially delayed due to COVID-19 situation.

Counsel for the State has filed the Custody Certificate in the Court, which reflects that the petitioner is in custody for the last 03 years, 05 months and 29 days and he is not involved in three more FIRs though, it is stated at Bar that in one FIR No.78, the petitioner is on bail.

Without commenting anything on merits of the case, considering the fact that the petitioner is in long custody for the last 03 years, 05 months and 29 days; out of 07 PWs only 01 PWs has been examined; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some 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.

(ARVIND SINGH SANGWAN)
JUDGE

20.12.2022

yakub

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No