

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

221

CRM-M-6564-2022 (O&M)

Date of Decision: 01.08.2022

Gurbaksh Singh

.....Petitioner

V/s.

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. Vipul Jindal, Advocate
 for the petitioner

Mr. Karanbir Singh, AAG Punjab

VINOD S. BHARDWAJ, J. (Oral)

CRM-19431-2022

Allowed as prayed for. Documents (P3 to P5 Colly) are taken on
record subject to just exceptions.

Main case

(1) The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.0095 dated 14.09.2017 under Sections 22/25/29 of Narcotic Drugs and Psychotropic Substance Act, 1985 (in short, the Act) registered at Police Station Mehna, District Moga.

(2) The present FIR had been registered on the statement of Sub Inspector who had apprehended the co-accused of the petitioner namely, Nirmal Singh @ Nikka and Simran Kaur @ Indu for being in possession of the 1 KG of *Alprozolam*. The vehicle in which the said accused persons were travelling belonged to Satpal Singh – one of the co-accused. The name of the petitioner figured in the disclosure statement of the main co-accused i.e. Nirmal Singh and Simran Kaur alleging that they had sourced the contraband

from the petitioner. The petitioner was declared as Proclaimed Offender on 01.05.2018 whereafter, he was arrested on 16.11.2021 and has since then been in custody.

(3) Learned counsel contends that the petitioner has not been named in the FIR and that recovery of contraband already stands effected from the co-accused. He submits that co-accused Simran Kaur from whom the recovery was effected has already been granted the concession of regular bail along with co-accused Satpal in whose vehicle they were travelling at the time they were apprehended. It is contended that the disclosure statement on the basis whereof the petitioner has been nominated as accused is inconsequential since the same has not led to any recovery and cannot be relied upon for continued incarceration of the petitioner.

(4) It is further submitted that the petitioner does not have any other pending case under the NDPS Act against him and that the investigation is already complete. However, charge in this case is yet to be framed and there are as many as 16 witnesses who have been cited by the prosecution. The conclusion of the trial is likely to take time.

(5) Learned State counsel contends that the petitioner has remained absconded from the process of law for nearly 3 years and that there is every likelihood of the petitioner fleeing from the process of law. He further submits that there was another case under the NDPS Act against the petitioner. Learned counsel, however, could not controvert the fact that the petitioner stands acquitted in the case that was registered earlier against the petitioner. It is also not disputed that co-accused Simran from whom the recovery has been effected has already been granted the concession of regular bail. He further does not dispute the fact that no recovery pursuant to the disclosure has been

effected from the petitioner or at his instance after the petitioner was taken in custody and resultantly, the only evidence available is the disclosure statement of the co-accused. It is also not controverted that the petitioner has already undergone actual custody of nearly 8 ½ months and that the charge in the case is yet to be framed.

(6) Taking into consideration the circumstance noticed above; the actual custody undergone by the petitioner; the absence of any recovery at the instance of the petitioner and the manner of his involvement in the present case, I deem it appropriate to enlarge the petitioner on bail to the satisfaction of the trial Court.

(7) Accordingly, the instant petition is allowed and the petitioner is ordered to be released on bail on his furnishing requisite heavy bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate, concerned.

(8) It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

(9) The observation made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall decide the case on the basis of available material.

(10) The petition is allowed.

01.08.2022
V.Vishal

(VINOD S. BHARDWAJ)
JUDGE

<i>Whether speaking / reasoned</i>	:	<i>Yes /No.</i>
<i>Whether Reportable</i>	:	<i>Yes/No</i>