

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(206)

CRM-M-8338-2021

Date of Decision : March 02, 2022

Suraj Bhan

.. Petitioner

Versus

State of Haryana

.. Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rakesh Gupta, Advocate, for the petitioner.

Mr. Gaurav Bansal, Assistant Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

Present petition has been filed under Section 439 Cr.P.C for the grant of regular bail to the petitioner in respect of FIR No.393 dated 22.10.2020 registered under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (Sections 27-A and 29 of the NDPS Act added on 12.01.2021) at Police Station Sadar Fatehabad, District Fatehabad.

Learned counsel for the petitioner argues that in the present case, no recovery of the contraband has been done from the petitioner and the petitioner has been roped in the present case only on the basis of the disclosure statement of the co-accused. Learned counsel for the petitioner submits that not only this, co-accused namely Malkiyat Singh as well as

~~Vikram~~, from whom the contraband was recovered, have already been

extended the concession of regular bail by a Coordinate Bench of this Court while passing the orders in CRM-M-8604-2021 on 15.12.2021 and CRM-M-10967-2021 on 07.12.2021 respectively and therefore, keeping the petitioner behind the bars any further will serve no purpose especially in view of the fact that as per the judgment of the Hon'ble Supreme Court of India in *Criminal Appeal No. 152 of 2013 titled as 'Tofan Singh Vs. State of Tamil Nadu'*, the disclosure statement of a co-accused is of no use unless and until corroborating by any independent material.

Learned counsel for the respondent-State, concedes that the recovery of the contraband was done from the co-accused namely Malkiyat Singh and Vikram and as of now apart from the disclosure statement of the co-accused Malkiyat Singh and Vikram, the other material, which has been collected by the Investigating Agency to substantiate that the petitioner was in touch with the said accused and the call details between the petitioner and other co-accused. Learned counsel for the respondent-State further concedes that the co-accused namely Malkiyat Singh and Vikram from whom the recovery of the contraband was effected, have already been extended the concession of regular bail by a Coordinate Bench of this Court.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

It is a conceded position that recovery of the contraband i.e. 50 kgs of *ganja* effected from a car, which was being occupied by the co-accused Malkiyat Singh and Vikram at that time. As per the statement of said two co-accused, they were only working as a drivers of the petitioner.

A Coordinate Bench of this Court passed the following orders in the cases of co-accused Malkiyat Singh and Vikram.

“ CRM-M-8604-2021

titled as Malkiyat Singh versus State of Haryana:-

The petitioner is seeking regular bail in FIR No.393 dated 22.10.2020, under Section 20 of the NDPS Act, registered at Police Station Sadar Fatehabad, District Fatehabad.

*Learned counsel for the petitioner contends that the petitioner was driving the car while recovery of 50 kgs of 'Ganja' was alleged to have been effected from the back seat of the car. The petitioner is not involved in any other case under the NDPS Act. He is not the owner of the car which was owned by co-accused Suraj Bhan. He is in custody for over 01 year and 01 month since his arrest on 22.10.2020. He also contends that co-accused Vikram, who was travelling on the passenger seat of the car, has been granted regular bail by this Court in CRM-M-10967-2021 on 07.12.2021. He has relied upon the judgment of the Coordinate Benches of this Court in the case of **Kashmir Singh v. State of Punjab**, in CRM-M No.7437 of 2019, decided on 21.02.2019, the petitioner therein had been granted regular bail, as he was in custody for over seven months and the judgment in the case of **Karaj Singh v. State of Punjab**, in CRM-M No. 23811 of 2018, decided on 09.07.2018, the petitioner therein had been granted regular bail after custody of six months.*

Learned State counsel states that 02 out of 22 prosecution witnesses have been examined.

Heard.

In view of the above, especially when the petitioner is in custody for over 01 year, he is not involved in any other case under the NDPS Act, Covid 19 pandemic and the conclusion of the trial is likely to take some time, I deem it a fit case to grant the concession of regular bail to the petitioner.

Therefore, without expressing any opinion on the merits of the case, the petition is allowed. The petitioner is ordered to

be released on regular bail on his furnishing requisite bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

CRM-M-10967-2021

titled as Vikram versus State of Haryana:-

The petitioner is seeking regular bail in FIR No.393 dated 22.10.2020, under Section 20 of the NDPS Act, 1985, registered at Police Station Sadar Fatehabad, District Fatehabad.

Learned counsel for the petitioner contends that the petitioner was travelling in the passenger seat of the car while recovery of 50 kg 'ganja' was alleged to be effected from the back seat of the car. He further contends that the petitioner is not involved in any other case under the NDPS Act. He is in custody for over 1 year and 1 month since his arrest on 22.10.2020.

Learned State counsel has filed custody certificate which indicates that the petitioner is in custody for a period of 1 year, 1 month and 13 days. She also contends that 2 out of 22 prosecution witnesses have been examined.

Heard.

In view of the above, especially when the petitioner is in custody for over 1 year and 1 month, he is not involved in any other case under the NDPS Act, the COVID-19 pandemic and the conclusion of the trial is likely to take some time, I deem it a fit case to grant the concession of regular bail to the petitioner.

Therefore, without expressing any opinion on the merits of the case, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing requisite bonds to the satisfaction of the trial Court/Duty Magistrate concerned."

Once, the co-accused Malkiyat Singh and Vikram, from whom the contraband was recovered, have already been extended the concession

of regular bail by a Coordinate Bench of this Court and the disclosure statement of the said co-accuseds is yet to be proved during the course of the trial, no useful purpose will be achieved in keeping the petitioner behind the bars during the entire period of trial, which is likely to take some time before it concludes especially when learned counsel for the petitioner has undertaken before this Court in case, the petitioner is extended the concession of regular bail, he will not influence the trial or the witnesses in any manner.

In view of the above and without commenting upon the merits of the case, it is directed that the petitioner be released on regular bail, subject to the satisfaction of the trial Court/Duty Magistrate concerned.

However, it is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case.

March 02, 2022
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : Yes