

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(210)

CRM-M-12182-2022

Date of decision: - 06.05.2022

Parveen Kumar @ Bikky

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Bikramjit Singh Randhawa, Advocate,
for the petitioner.

Mr. Sukhbeer Singh, AAG, Punjab.

VIKAS BAHL, J. (ORAL)

This is a second petition under Section 439 Cr.P.C. for grant of regular bail in FIR No.73 dated 27.04.2021, registered under Section 20(B) of the Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station Dasuya, District Hoshiarpur.

Learned counsel for the petitioner has pointed out that earlier petition i.e. CRM-M-23875-2021 filed by the petitioner was dismissed as withdrawn with liberty to file a fresh petition with better and correct particulars, vide order dated 02.02.2022, by a Co-ordinate Bench of this Court and thus, the present petition be treated as the first petition seeking concession of regular bail.

Learned counsel for the petitioner has further pointed out that in the present case, petitioner along with one Raj Kumar have alleged to have been apprehended with 700 grams of charas, which was stated to have been recovered from the dashboard of the car, in which, the petitioner and co-accused Raj Kumar were sitting. It is submitted that co-accused Raj Kumar, who is similarly placed as the present petitioner, has already been granted the concession of regular bail by a co-ordinate Bench of this Court, vide order dated 09.09.2021 passed in CRM-M-21859-2021. It is further submitted that the alleged quantity recovered from the petitioner is of non-commercial quantity as the commercial quantity stipulated cannabis/charas starts from 1 Kg. It is further submitted that the petitioner has been in custody since 27.04.2021 and there are 12 prosecution witnesses, out of which, only 4 have been examined and thus, the trial is likely to take time.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that the recovery has been made from the car, in which, the petitioner and co-accused Raj Kumar were present. It is submitted that the petitioner is involved in one more case under the NDPS Act.

Learned counsel for the petitioner in rebuttal has relied upon the judgment of Hon'ble Supreme Court in “**Maulana Mohd. Amir Rashadi vs. State of U.P. and another**”, **reported as 2012 (2) SCC 382**, to contend that the facts and circumstances of the present case are to be seen and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in another case. The relevant

portion of the said judgment is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

This Court has heard learned counsel for the parties and has gone through the record.

It is not in dispute that the alleged recovery from the car in which the petitioner and co-accused Raj Kumar were travelling is of non-commercial quantity. The co-accused Raj Kumar has already been granted the concession of regular bail by a Co-ordinate Bench of this Court, vide order dated 09.09.2021 passed in CRM-M-21859-2021 and the case of the present petitioner is on parity with the said co-accused Raj Kumar. The petitioner is in custody since 27.04.2021 and there are 12 prosecution witnesses, out of which, only 4 have already been examined and thus, the trial is likely to take time. Moreover, the said witnesses who are to be examined, are official witnesses, hence, the question of influencing them does not arise.

Keeping in view the abovesaid facts and circumstances, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to him not being required in any other case.

Nothing stated above shall be construed as a final expression

of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

May 06, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	No