

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-16837-2021 (O&M)
Date of decision: 04.05.2022

Ajay @ Ajju Masih

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. B.S. Jaswal, Advocate
for the petitioner.

Mr. Abhay Pal Singh Gill, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.176 dated 19.11.2019 under Sections 21/22/29/61 of NDPS Act, Section 25 of Arms Act and Section 411 IPC (added later on), registered at Police Station City Batala, District Gurdaspur.

Learned counsel for the petitioner, at the very outset, relies upon the order dated 10.11.2021 passed in CRM-M-33659-2021, vide which co-accused Jugraj Singh @ Jagga has already been granted the concession of regular bail. The operative part of the order reads as under: -

“...Learned counsel for the petitioner submits that as per

allegations in the FIR, the police party apprehended Ajay @ Ajju Masih, Navjot Singh @ Jota, Gurwinder Singh @ Baba and Jugraj Singh and by following the proper procedure, their search was conducted and 260 grams of heroin along with country-made pistol and live cartridges were recovered from co-accused Ajay @ Ajju Masih. It is further submitted that the petitioner is in custody for the last 01 year, 09 months and 09 days and he has been nominated in this case on the basis of disclosure statement of co-accused Navjot Singh @ Jota, however, as per disclosure statement of co-accused Navjot Singh @ Jota, he has not named the petitioner. Learned counsel has referred to disclosure statement of other co-accused also, to submit that in none of the disclosure statements, name of the petitioner surfaced and he has been nominated in this case without there being any connecting evidence.

Learned State counsel has filed the custody certificate dated 09.11.2021 in the Court today and has, however, submitted that the petitioner was taken on production warrants in the present FIR, while he was in custody in some other case and thereafter, he was nominated in this case. It is further submitted that though the challan stands presented, however, the charges have not been framed so far.

As per the custody certificate, the petitioner is in custody for

the last 01 year, 09 months and 09 days and is involved in some other cases under IPC and Arms Act...”

Learned counsel submits that even other co-accused Jarmanjeet Singh @ Janu, Jugraj Singh son of Hira Singh and Prabhjot Singh @ Lovely were granted the concession of regular bail vide order dated 13.08.2020 passed in CRM-M-15259-2020, order dated 04.03.2021 passed in CRM-M-18277-2020 and the order dated 13.09.2021 passed in CRM-M-23956-2020, respectively. It is further submitted that the petitioner is in custody for the last 02 years, 04 months and 23 days and though he is involved in some other cases under IPC, however, is on bail.

Learned counsel, with reference to allegations in the FIR, has submitted that it is stated by complainant/SI Sukhdev Singh that when he apprehended four persons, one of them, who was holding a polythene bag in his left hand, disclosed his name as Ajay @ Ajju Masih and he was about to throw the polythene bag. Thereafter, a polythene bag, which he was carrying in his left hand, was searched and 260 grams of heroin was recovered. It is argued that since the polythene bag was recovered from hand of the petitioner, it will amount to his personal search, therefore, it will be a debatable issue during the course of trial whether proper procedure under Section 50 of NDPS Act was followed or not.

Learned State counsel has filed the custody certificate in the Court today, according to which, the petitioner is in custody for the last 02 years, 04 months and 23 days and is involved in one more case under NDPS Act and

some cases under IPC. It is submitted that out of total 13 prosecution witnesses, none has been examined so far and the trial is yet to commence.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering long custody of the petitioner; his three aforesaid co-accused have already been released on regular bail and also in view of the fact that out of total 13 prosecution witness, none has been examined so far, therefore, it will take some time in conclusion of the trial, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

04.05.2022
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No