

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

**CRM-M-24306-2021
Date of decision: 24.03.2022**

Kapil Arora

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Ruhani Chadha, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

This is the second petition that has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 126 dated 01.08.2019, registered under Sections 21 and 29 of the NDPS Act, 1985 at Police Station Sadar Kapurthala, District Kapurthala.

The first petition, bearing CRM-M-3323-2020, was dismissed as withdrawn on 31.01.2020.

Learned counsel for the petitioner submits that the new ground for filing the present petition is that the petitioner is in long judicial custody i.e. 02 years, 07 months and 20 days and till date, no prosecution witness has been examined.

Learned counsel further submits that as per allegations in the FIR, registered at the instance of SI Jatinder Singh, it is stated that while on patrol duty, they were checking the vehicles and a person was seen coming,

who was carrying a black color bag and had gone to an i20 car, which was standing nearby. In the said car, there were already five persons, namely Rajbir, Sukhjeevan Singh, Lavpreet Singh @ Lovely, Hansraj and Dilbagh Singh. On seeing the police party, the person, who was carrying the bag, became nervous and tried to run away. The other persons, sitting in aforesaid i20 car also fled away. Thereafter, the said person was apprehended, who on inquiry disclosed his name as Kapil Arora i.e. the present petitioner. On suspicion, a notice was given and DSP was called at the spot and in his presence, 05 kgs. of heroin was recovered.

Learned counsel further submits that challan was presented on 16.12.2019 and the trial was delayed due to COVID-19 situation and thereafter, the charges were framed on 31.01.2022; out of total 20 prosecution witnesses none has been examined so far and the petitioner is in judicial custody for the last 02 years, 07 months and 20 days and he is not involved in any other case.

Learned counsel further submits that it will be a matter of trial whether proper procedure under Sections 42 and 50 of the NDPS Act was followed or not. It is further submitted that co-accused Hans Raj Singh @ Hans Raj has already been granted the concession of anticipatory bail, vide order dated 16.11.2019 passed in CRM-M-47765-2019.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the fact that the petitioner is in long judicial custody; a co-accused has been granted the concession of anticipatory bail as noticed above and also in view of the fact that conclusion of trial is likely to take some time as till date no prosecution witness has been examined as the trial is delayed due to

COVID-19 situation, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaqa Magistrate, concerned.

24.03.2022

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No