

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

**CRM-M-25554-2020
Date of decision: 20.01.2022**

Kuldeep Singh @ Mintu

...Petitioner

Versus

State of Punjab and another

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Rajesh Bhatheja, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

Ms. Sharmila Sharma, Advocate
for respondent No.2/NCB.

(Through video conferencing)

ARVIND SINGH SANGWAN, J. (Oral)

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 29/2016 dated 19.07.2016, registered under Sections 8/22/25/29/60 of the Narcotic Drugs & Psychotropic Substances Act, 1985 at NCB, Amritsar.

Learned counsel for the petitioner relies upon order dated 23.11.2021 passed in CRM-M-9405-2021, vide which co-accused Charanjit Chopra @ Sweetie has already been granted the concession of regular bail by this Court. The operative part of the order reads as under:

“Learned counsel for the petitioner submits that the petitioner was granted concession of interim bail on two earlier occasions; firstly at the time when the case was pending awaiting the FSL report and after availing the same, the petitioner was again granted the concession

of interim bail, vide order dated 25.09.2020 passed in CRM-M-10052-2020. The operative part of the order reads as under:

“Learned counsel for the petitioner further submits that vide order of the even date passed in CRM-M-7527-2020, while granting interim bail to co-accused Israr Hussain, this Court has passed the following order:

“.....Learned counsel further argues that the petitioner is in judicial custody for the last more than 02 years and 09 months and the petitioner was nominated in this case on the disclosure of a co-accused.

Learned counsel for the respondent-NCB has argued that there are serious allegations against the petitioner regarding recovery of narcotic substances, however, she could not dispute the fact that for the last many dates, no prosecution witness has been examined on account of Covid-19 situation.

Learned counsel for the respondent-NCB has also raised suspicion that when the petitioner was granted interim bail awaiting the report of Chemical Examiner, on receiving the same, he did not surrender back in time and appeared before the Court only when proceedings for declaring him a proclaimed offender were initiated.

In reply, learned counsel for the petitioner submits that though there are number of grounds, on which, he will be praying for grant of regular bail to the petitioner but considering the fact that petitioner has been advised an urgent surgery on account *infected sebaceous cyst lower occipital scalpe*, at this stage, he would only pray for grant of interim bail as the petitioner needs some time to undergo the said surgery.

Learned counsel for the petitioner further submits that even on an earlier occasion, the petitioner has applied for grant of interim bail before this Court, which was allowed and after fulfilling the same, he has surrendered back without any delay.

Learned counsel for the petitioner has also relied upon order dated 11.09.2020 passed by Hon'ble Supreme Court in **Criminal Appeal Nos. 585-586 of 2020** titled as **Sheru vs. Narcotics Control Bureau**, wherein it has been held that in view of Covid-19 situation, when the trial is not proceeding, interim bail may be granted to the accused.

After hearing learned counsel for the parties, without commenting upon the merits of the case, considering the medical condition of the petitioner as well as the observations made by Hon'ble Supreme Court in above cited order and also considering the fact that petitioner is in judicial custody for the last more than 02 years and 09 months and for the last about 01 year, no prosecution evidence has been recorded due to Covid-19 situation, the present petition is disposed of and the petitioner is ordered to be released on interim bail till 25.02.2021, on his furnishing bail bonds and two heavy sureties to the satisfaction of the trial Court/Duty Magistrate/Illaq Magistrate, concerned.

However, the trial Court, after assessing the situation, if the trial has not started in ordinary course and the evidence is recorded, may cancel or may continue the interim bail granted to the petitioner till further orders.”

Learned counsel for the petitioner further submits that though the petitioner was found present in car from where the recovery was effected, however, it is stated in the complaint that recovery was in fact effected from co-accused Kuldip.

It is further submitted that petitioner is in judicial custody for the last more than 02 years and 09 months; he is not involved in any other case and he may also be granted similar relief as granted to co-accused Israr Hussain.

Since the petition is arising out of the same FIR as in the CRM-M-7527-2020, learned counsel for the respondent-NCB accepts notice in this case as well.

After hearing learned counsel for the parties,

without commenting upon the merits of the case, considering the aforesaid submissions of learned counsel for the petitioner as well as the observations made by Hon'ble Supreme Court in above cited order and also considering the fact that petitioner is in judicial custody for the last more than 02 years and 09 months and for the last about 01 year, no prosecution evidence has been recorded due to Covid-19 situation, the present petition is disposed of and the petitioner is ordered to be released on interim bail till 25.02.2021, on his furnishing bail bonds and two heavy sureties to the satisfaction of the trial Court/Duty Magistrate/Illaq Magistrate, concerned.”

Learned counsel for the petitioner further submits that thereafter, the petitioner has surrendered before the trial Court and now the trial is standstill because one of the co-accused namely Israr Hussain, who was granted the concession of interim bail in CRM-M-7527-2020, has not surrendered back andailable warrants have been issued against him.

Learned counsel further submits that as on today, the trial is not proceeding as the trial is at the same stage where it was when the petitioner was granted interim bail by this Court on 25.09.2020.

Learned counsel further argues that the petitioner is not the registered owner of the car from where the recovery was effected from the co-accused.

Learned counsel for respondent No. 2/NCB has filed the status report and submitted that when the petitioner was granted the first interim bail awaiting the FSL report, he did not surrender back and ultimately when the warrants and proclamation under Section 82 Cr.P.C. were issued against all the accused, the petitioner surrendered back before the trial Court, however, it is not

disputed that the petitioner, after availing the second interim bail i.e. w.e.f. 25.09.2020 till 25.02.2021, has surrendered back in time and has not misused the same.”

Learned counsel for the petitioner further submits that the petitioner is in judicial custody for the last 03 years, 05 months and 26 days and he is not involved in any other case. It is further submitted that trial is substantially delayed due to COVID-19 situation and non-appearance of co-accused Israr Hussain.

Learned counsel further submits that the allegations against the petitioner are similar to that of aforesaid co-accused Charanjit Chopra @ Sweetie, who has already been granted the concession of regular bail by this Court.

Learned counsel, appearing for respondent No. 2/NCB, has filed the custody certificate, as per which, the petitioner is in judicial custody for the last 03 years, 05 months and 26 days and he is not involved in any other case. She has not disputed the fact that the allegations against the petitioner are similar to that of aforesaid co-accused.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the aforesaid facts as well as the submissions made by learned counsel for the parties, 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/Illaq Magistrate, concerned.

20.01.2022

Waseem Ansari

*Whether speaking/reasoned
Whether reportable*

**(ARVIND SINGH SANGWAN)
JUDGE**

*Yes/No
Yes/No*