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

CRM-M No.28334 of 2022 (O&M)

Date of decision: 14.11.2022

Raj Singh @ Raju

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Rahul Arora, Advocate
for Mr. Raman Goklaney, Advocate
for the petitioner.

Mr. Navneet Singh, DAG, Punjab.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this 2nd petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.52 dated 26.06.2021, registered under Sections 15 and 22 of the Narcotic Drugs and Psychotropic Substances Act (in short 'the NDPS Act') and Section 411 of the Indian Penal Code, 1860 (in short 'IPC') registered at Police Station City 2 Abohar, District Fazilka.

The earlier one was dismissed by this Court vide order dated 10.02.2022 passed in CRM-M No.35828 of 2021.

Counsel for the petitioner has submitted that the new ground for filing this 2nd petition is that the petitioner is in custody for the last about 01 year, 04 months and 16 days; he is suffering from permanent disability and he is on bail in two cases i.e. one registered

under the Excise Act in the year 2017 and the other registered under the NDPS Act, in the year 2019 and the trial is not proceeding further.

The Superintendent, Central Jail Ferozepur is present in person in the Court and has filed the affidavit, according to which the petitioner is having permanent Orthopedic Disability, which is reproduced as under:-

“It is submitted that above undertrial Raj Singh @ Raju s/o Mohinder had a history of polio at age of 2-3 years after which his right leg was paralysed. As per certificate No.1414 dated 22/12/03, patient is permanently disable and having post polio residual paralysis (PPRP) right lower limb with wasting of muscles of leg and thigh with shortening (90% disabled).”

Counsel for the petitioner has argued that as per the allegations in the FIR, the Investigating Officer ASI Harbans Singh, apprehended the petitioner, who was coming on a three wheeler scooter and he became perplexed on seeing the police party. He was carrying a White colour plastic bag, which fell down on earth and thereafter, he was apprehended and disclosed his name as Raj Singh. Thereafter, a ruqa was sent to the Police Station for further investigation and recovery of 10 Kgs of Poppy Husk and 17 intoxicant tablets and some money was effected from him. It is also argued that when the first application was decided, the custody of the petitioner was 07 months and now, it is 01 year, 04 months and 16 days. It is further contended that till date, no PW has been examined.

Counsel for the petitioner has also submitted that the petitioner is facing great difficulty as he cannot squat and sit properly

and has to take the help of other jail inmates and thus, it is difficult for the petitioner to stay inside the judicial custody.

Counsel for the State on the basis of the Custody Certificate and on instructions from ASI Vinod Kumar, has not disputed the factual position but opposed the prayer for bail on the ground that the petitioner is involved in two more cases, however, he is already released on bail by the Court of Judge Special Court, Fazilka.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last 01 year, 04 months and 16 days; the petitioner is suffering from permanent disability; the custodial interrogation of the petitioner is not required; till date, no PW has been examined and the conclusion of the trial will take some time, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

14.11.2022
yakub

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No