

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

CRM-M-32900-2021 (O&M)

Date of decision: 16.03.2022

Sajan

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. G. S. Bajwa, 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. 03 dated 21.01.2020, registered under Section 304 IPC and Sections 27 and 29 of the NDPS Act, at Police Station Verka, District Amritsar.

Learned counsel for the petitioner submits that as per allegations in the FIR, registered at the instance of complainant Harpal Singh, it is stated that he and his cousin brother Varinder Singh @ Gullu used to take heroin since long by buying the same from co-accused Jalwant Singh @ Jaj. On 20.01.2020, he along with his cousin brother bought heroin and injected the same into their arms and after taking the heroin through injections, the complainant and his cousin brother became unconscious. In the morning, the complainant gained conscious and he tried to wake up his cousin but he did not wake up. Thereafter, the complainant was admitted to a hospital, where he came to know that Varinder Singh @ Gullu has died.

Learned counsel for the petitioner further submits that the petitioner is not named in the FIR and his name surfaced in the disclosure of aforesaid co-accused Jalwant Singh @ Jaj as a person, from whom he used to procure the heroin.

Learned counsel for the petitioner further submits that petitioner is in judicial custody for the last more than 01 years and 01 month; he is not involved in any other case and conclusion of trial is likely to take a long time as even charges have not been framed so far.

Learned counsel for the petitioner relies upon the judgments rendered by Hon'ble Supreme Court in *Tofan Singh vs. State of Tamil Nadu, (2021) 4 SCC 1* and *State By (NCB) Bengaluru vs. Pallulabid Ahmad Arimutta & Anr. 2022 Live Law (SC) 69* to submit that it will be a matter of trial whether the disclosure of the co-accused is admissible against the petitioner or not.

Learned State counsel, on the basis of the affidavit of the SHO concerned, submits that during investigation, the call details of the mobile phone of the petitioner as well as co-accused Jalwant Singh @ Jaj were taken and co-accused Jalwant Singh @ Jaj was found to be in touch with the deceased and the location of his mobile phone was found to be at the place, where Varinder Singh @ Gullu had died.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the fact that the petitioner is in judicial custody for the last more than 02 years and 01 month; he is not involved in any other case; conclusion of trial is likely to take some time as even charges have not been framed so far and also in view of the ratio of law laid down by Hon'ble Supreme Court in the

aforesaid judgments relied upon by the petitioner, the instant petition is allowed. The petitioner is ordered to be released on regular bail on her furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaqa Magistrate, concerned.

16.03.2022

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No