

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

**CRM-M-36667-2019 (O&M)
Date of decision: 25.04.2022**

Anil Kumar @ Nilu

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Sandeep Verma, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

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. 35 dated 05.03.2015, registered under Sections 21, 24, 25, 27, 28, 29 and 30 of the NDPS Act, 1985; Section 25 of the Arms Act, 1959 and Section 66 of the I.T. Act, 2000 at Police Station Sadar Jalalabad, District Fazilka.

This bail application is pending since 2019 and could not be taken up in the intervening period due to COVID-19 situation.

Learned counsel for the petitioner submits that the FIR was registered on a secret information that eleven persons have formed a group and they are doing the smuggling of heroin, gold and illegal weapons from Pakistan and selling the same to public.

Learned counsel further submits that the allegations against the petitioner are that when the raid was conducted by the police, total 1800

grams of heroin along with a pistol and 24 gold biscuits were recovered and eleven persons were arrested from the spot, however, the petitioner has run away from the spot and later on, he was declared a proclaimed offender on 01.12.2015 and was arrested on 05.04.2019.

Learned counsel further submits that though in the intervening period, co-accused of the petitioner, who were arrested at the spot, faced trial wherein nine persons were convicted and one person was acquitted by the trial Court, it will be a matter of trial whether in pursuance of the arrest of the petitioner, any recovery was effected from him; whether the petitioner was present at the spot and he succeeded in running away from there and whether he was not at all involved with the aforesaid persons as the petitioner is not involved in any other case, as per custody certificate filed today in Court.

Learned State counsel has filed the custody certificate and has not disputed the factual position. As per custody certificate, the petitioner is in judicial custody for the last more than three years.

Learned State counsel submits that there are total 15 prosecution witnesses, however, none has been examined so far.

Learned State counsel, on the basis of the affidavit of the Investigating Officer, has further submitted that a supplementary challan was presented against the petitioner, however, no recovery was effected from him as he was not arrested at the spot.

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 03 years and 06 days; he is not involved in any other case; conclusion of trial is likely to

take some time as out of total 15 prosecution witnesses, none has been examined so far and also in view of the fact that this petition is pending since 2019 and could not be taken up 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.

25.04.2022

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No