

224

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.47618 of 2021 (O&M)

Date of decision: 19.07.2022

Gursewak Singh @ Sewak

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. L.S. Sekhon, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, 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.80 dated 25.08.2019, registered under Sections 22 and 29 of the NDPS Act, at Police Station GRP Bathinda, District Bathinda.

Counsel for the petitioner has submitted that the new ground for filing this petition is that the custody of the petitioner is 02 year, 07 months and 03 days and only 01 PW has been examined out of 20 PWs.

Counsel for the petitioner has relied upon the order dated 27.10.2021, passed in CRM-M No.16222 of 2021, vide which the co-accused of the petitioner namely Malwinder Singh was granted the concession of bail, by passing the following order:-

“Learned counsel for the petitioner submits that new ground for filing this second petition is that as on

today, the petitioner is in custody for the last 01 year, 08 months and 09 days and till date, no prosecution witness has been examined. It is further submitted that as per allegations in the FIR, registered at the instance of ASI Ram Khiladi Meena, while on duty, he noticed a person picking up luggage and on inquiry, he disclosed his name as Gurseem and owner of the luggage disclosed his name as Rahul. Later on, when the search was conducted, 2250 intoxicant tablets of Carisoprodol, 120 vials of Onerex and 120 vials of Vincere were recovered. It is also submitted that during the investigation, name of the petitioner surfaced in the disclosure statement of main accused, who was arrested at the spot. Learned counsel further submits that the petitioner though is involved in one more case of 2019, however, he is on bail.

Learned State counsel has filed the custody certificate dated 26.10.2021 in the Court today and has not disputed the fact that the petitioner was nominated on the basis of disclosure statement of main accused, who was arrested at the spot. It is also not disputed that the petitioner is in custody for the last 01 year, 08 months and 09 days and out of total 21 prosecution witnesses, none has been examined so far.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering the fact that the petitioner is in custody for the last 01 year, 08 months and 09 days and out of total 21 prosecution witnesses, none has been examined so far, therefore, it will take some time in conclusion of the trial, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.”

Counsel for the petitioner has further argued that even in

case of the petitioner, he was arrested at the spot and later on, he was arrested in another FIR wherein by recording his disclosure statement, he was named in the present FIR.

Counsel for the State on the basis of the Custody Certificate has not disputed the factual position but opposed the prayer for bail. It is also not disputed that the petitioner is in custody for the last 02 years and 07 months and only 01 PW has been examined, so far.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last 02 years, 07 months and 03 days; the co-accused of the petitioner is already released on bail; the custodial interrogation of the petitioner is not required; out of 20 PWs, only 01 PW has been examined so far 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

19.07.2022
yakub

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No