

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-44095-2022 (O&M)
Date of decision: 12.10.2022

Jalwant Singh @ Jaj

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Akhilesh Vyas, Advocate
for the petitioner.

Mr. Sandeep Chopra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this 3rd petition is for grant of regular bail in FIR No.03 dated 21.01.2020 under Sections 37, 29 of NDPS Act, registered at Police Station Verka, District Police Commissionerate Amritsar; first petition was dismissed on merits vide order dated 03.11.2020 and second petition was dismissed as withdrawn on 16.03.2022.

Learned counsel for the petitioner submits that new ground for filing this third petition for grant of regular bail is that two co-accused of the petitioner, namely Sajan and Harpal Singh @ Bhola have already been granted the concession of regular bail vide order dated 16.03.2022 passed in CRM-M-32900-2021 and the order dated 28.03.2022 passed in CRM-M-52219-2021,

respectively. It is further submitted that the petitioner, as on today, is in custody for the last 02 years, 08 months and 20 days and despite the fact that charges were framed in the year 2020 and till date, out of 15 prosecution witnesses, none has been examined so far. The operative part of the order dated 28.03.2022, granting regular bail to co-accused Harpal Singh @ Bhola, reads as under: -

“Learned counsel for the petitioner submits that the petitioner is in custody for the last about 08 months; investigation is complete and till date, the charges have not been framed. Learned counsel relies upon the order dated 16.03.2022 passed in CRM-M-32900-2021, vide which co-accused Sajan has been granted the concession of regular bail. The operative part of the order reads as under: -

“...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.”

Learned counsel has submitted that the petitioner has been nominated in the FIR on the basis of disclosure statement of co-accused Jalwant Singh @ Jaj, as the person, who has supplied heroin to the deceased. It is further submitted that case of the petitioner is on similar footings as of co-accused Sajan, as his name was also surfaced in the disclosure statement of co-accused Jalwant Singh @ Jaj.”

Learned counsel further submits that the petitioner is not involved in any other case under NDPS Act, though he was previously involved in a case under Excise Act, in which he has undergone the sentence.

For the sake of brevity, facts are not reproduced again, as the same

are already noticed in the aforesaid orders.

Learned State counsel has filed the custody certificate in the Court today, which reflects that the petitioner is in custody for the last 02 years, 08 months and 20 days and on instructions from ASI Narinder Singh, has not disputed that till date, no prosecution witness has been examined and charges were framed in the year 2020.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering aforesaid facts and circumstances of the case, 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.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

12.10.2022
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No