

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
CRM-M-44706-2022**

Date of Decision: September 30, 2022

Gurpal Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Ms. Simsi Dhir, Advocate,
for the petitioner.

Mr. J.S. Arora, DAG, Punjab.

SANJAY VASHISTH, J.

1. The instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail to the petitioner, Gurpal Singh, who has been booked for having committed the offence punishable under Sections 22, 29 and 61 of the Narcotic Drugs and Psychotropic Substances Act, 1985, and Section 52-A of the Prisons Act, 1894, in FIR No. 188, dated 03.08.2022, registered at Police Station City, District Hoshiarpur.

2. Learned counsel for the petitioner argues that petitioner, aged about 57 years, is an Ex-serviceman. He was employed by an outsource agency and deputed in Central Jail, Hoshiarpur. Referring to the version of the FIR, learned counsel submits that alleged recovery of 71 grams of intoxicant power is from co-accused Sahil and on his statement name of the petitioner has surfaced. Learned counsel further

submits that a false case has been planted against the petitioner because he is an Ex-serviceman and except of present case, was never found involved in any other such activity. She further submits that, in fact, petitioner has been dragged in the present case by the police because of his non-compromising attitude being an Ex-serviceman. Learned counsel also submits that as recovery has already been effected from co-accused, applicability of bar under Section 37 of the NDPS Act would be debatable issue before trial Court at the time of decision of the case. Thus, it is submitted that petitioner cannot be kept inside the jail for indefinite period.

3. Per contra, learned counsel for the State submits that being an accused in a case of serious nature, petitioner does not deserve any sympathy and in case of release on bail, he may repeat offence again. Learned State counsel also produced custody certificate, dated 29.09.2022, which is taken on record.

4. I have heard learned counsel for the parties and gone through the record with their able assistance.

5. As per custody certificate, petitioner is behind bars from 12.08.2022, i.e. for 1 month and 18 days only. But looking at the fact that recovery of 71 grams of intoxicant power is from co-accused Sahil, petitioner cannot be burdened at par with co-accused Sahil at least for the purpose of considering the issue of bail.

6. Moreover, contentions raised by learned counsel for the petitioner that he is an Ex-serviceman, aged about 57 years and never

found involved in any other case till this stage of life, have not been controverted by learned State counsel. Completion of criminal proceedings are also not likely to end in near future. Therefore, considering all the aforementioned aspects, I deem appropriate to pass an order for release of the petitioner on bail.

7. Accordingly, this criminal miscellaneous petition is allowed. Petitioner is ordered to be released on bail in this case, subject to his furnishing bail/surety bonds to the satisfaction of the learned Chief Judicial Magistrate/Illaqua Magistrate/Duty Magistrate concerned, if not required in any other case.

8. It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

9. The observation made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall decide the case on the basis of evidence available on record.

(SANJAY VASHISTH)
JUDGE

September 30, 2022

P Kapoor

Whether Speaking/Reasoned: **YES/NO**
Whether Reportable: **YES/NO**