

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

CRM-M-48640-2021 (O&M)

Date of decision : 02.06.2022

Raj Kumar @ Raju

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

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

Mr. K.K. Bhainiwala, Addl. AG, Punjab.

ALKA SARIN, J. (ORAL)

This is the third petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.175 dated 17.06.2019 under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Model Town, Hoshiarpur, District Hoshiarpur. The first petition being CRM-M-12939-2020 was dismissed as withdrawn on 22.06.2020 and the second petition being CRM-M-32849-2020 was dismissed on 19.03.2021.

Learned counsel for the petitioner would contend that the petitioner has been in custody since 17.06.2019 and there is no other case pending against him. It is further the contention of learned counsel for the petitioner that the official witnesses in the present case have not been appearing despite the challan having been presented on 16.11.2019. In fact, a perusal of the *zimni* order dated 13.05.2022 reveals thatailable warrants

have been issued against the official witnesses.

Per contra, learned counsel for the State, on instructions from ASI Hans Raj, has stated that the first petition filed by the petitioner being CRM-M-12939-2020 was dismissed as withdrawn on 22.06.2020 and the second petition being CRM-M-32849-2020 was dismissed vide order dated 19.03.2021. There is no ground for grant of regular bail to the petitioner keeping in view the quantity recovered from the petitioner. However, learned counsel for the State is not in a position to deny the fact that the petitioner has been in custody since 17.06.2019 and that there is no other case pending against him. He is also not in a position to deny that the official witnesses were not coming forward for getting their statements recorded and hence, bailable warrants have been issued to ensure their presence.

Heard.

In the present case, the challan was filed on 16.11.2019 and till date the case is still at the stage of prosecution evidence primarily because of the fact that the official witnesses are not coming forward to get their statements recorded. Rather, bailable warrants have been issued to ensure their presence. The petitioner has been in custody since 17.06.2019 and there is no other case pending against him. The conclusion of the trial is likely to take some time.

In view of the above-mentioned circumstances, detention of the petitioner would not serve any useful purpose. Without commenting upon the merits of the case, I deem this to be a fit case to grant the concession of regular bail to the petitioner. The petitioner is directed to be released on bail

subject to his furnishing bail bonds/surety bonds to the satisfaction of the Illaqa Magistrate/Duty Magistrate/Trial Court concerned.

However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

Disposed off. Pending applications, if any, also stand disposed off.

A copy of this order be sent to the Inspector General of Police, Punjab to take appropriate action against the erring officials who have not been appearing before the Court below for getting their statements recorded.

02.06.2022
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO