

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

CRM-M-53042-2021 (O&M)

Date of decision: 18.07.2022

Surjit Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Kamal Narula, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

This is the third petition that has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 86 dated 19.07.2019, registered under Section 22 of the Narcotic Drugs & Psychotropic Substances Act, 1985 at Police Station Sadar Jalalabad, District Fazilka.

It is worth noticing here that in the first bail petition, bearing CRM-M-27070-2020, the petitioner was granted the concession of regular bail on 30.09.2020 as it was represented that co-accused Lakhwinder Singh @ Lakha has been granted the concession of regular bail by this Court, however, later on, it came to the notice of this Court that in fact there is no such co-accused by the name of 'Lakhwinder Singh @ Lakha', whose bail order was relied upon while the bail was granted to the petitioner on 30.09.2020, therefore, on 11.11.2020, the aforesaid order was recalled. Thereafter, noticing the fact that the petitioner has not surrendered back, his second bail petition was also dismissed.

Learned counsel for the petitioner submits that the petitioner immediately thereafter has surrendered back and in fact, two of the co-accused of the petitioner, who were subsequently granted the concession of interim bail, are continuing on interim bail.

Learned counsel further submits that vide order dated 16.12.2020 passed in CRM-M-25314-2020, co-accused Makhan Singh was granted the concession of interim bail, however, later on, he has died. It is further submitted that vide order dated 15.09.2020 passed in CRM-M-26764-2020, another co-accused Bhajan Singh was also granted the concession of interim bail noticing the fact that he was in custody for the last more than one year.

The parties are *ad idem* that the interim bail, granted to aforesaid two co-accused, is still continuing as till date, no PW has been examined.

As per allegations in the FIR, ASI Balkar Singh, while on a patrol duty, apprehended three persons, namely Bhajan Singh, Makhan Singh and petitioner Surjit Singh and recovered 925 intoxicant tablets.

Learned counsel for the petitioner further submits that the position has not changed and even till date, out of total 13 PWs, none has been examined so far.

Learned State counsel has filed the custody certificate, which reflects that the petitioner is in judicial custody for the last 02 years and 16 days and he is involved in one more case under the NDPS Act.

On a Court query, learned State counsel, on instructions from ASI Gurbaksh Singh, admits that co-accused Makhan Singh has died and that no PW has been examined so far, though the charges were framed on

10.01.2020.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the aforesaid facts and circumstances as well as the fact that two of the co-accused have been granted interim bail, which is still continuing as admitted by both the sides and also noticing the fact that the petitioner is in judicial custody for the last more than 02 years, 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/Illaq Magistrate, concerned.

18.07.2022

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No