

111

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-5339-2022 in/and
CRM-M-53634-2021 (O&M)
Date of Decision:21.02.2022

Parminder Singh @ Rinku

.. applicant/Petitioner

Vs.

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Monty Goyal, Advocate for applicant-petitioner.

Mr. Ramdeep Partap Singh, DAG, Punjab.

...

Manoj Bajaj, J. (Oral)

CRM-5339-2022

This application has been filed under Section 482 Cr.P.C. read with Section 439 Cr.P.C. for grant of interim regular bail for a period of one month to the applicant/petitioner, who is HIV positive and the trial of the case is not making any progress.

Learned counsel for applicant-petitioner submits that though the application has been moved for interim regular bail, but as the main case is pending for 14.03.2022, he prays that the main case be preponed to today.

Notice in the application.

At this stage, Mr. Ramdeep Partap Singh, DAG, Punjab, accepts notice on behalf of the respondent-State and does not oppose the prayer for preponement of the main case.

The prayer is accepted and the date of hearing is preponed to today.

Since the main case is being heard, the application for grant of interim regular bail is rendered infructuous.

Main case

Petitioner has prayed for grant of regular bail under Section 439 Cr.P.C, pending trial in case FIR No.81 dated 22.04.2015 registered under Section 22 NDPS Act, 1985 at Police Station Sadar, Jalandhar, District Jalandhar. The petitioner is in custody since his arrest on 06.11.2020.

The FIR was registered on the basis of a secret information and the allegations as noticed by the Id. Judge Special Court, Jalandhar in the order dated 12.01.2021 are as under:

“---on 22.04.2015 accused/applicant was arrested by the police party of ASI Kamaljit Singh and 60 gram of intoxicant powder was recovered from his conscious possession. Challan was submitted against the accused in the court on 09.10.2015. Accused absented from the court proceedings on 25.02.2016 and after adopting the due procedure the accused was declared as proclaimed offender vide order dated 31.05.2016. Thereafter, after adopting the procedure under Section 299 Cr.P.C after recording the prosecution evidence, file was ordered to be consigned to the record room vide order dated 29.03.2017. Meaning thereby, accused absented from the court proceedings way back on 25.02.2016 and now after a lapse of more than 4½ years he has been arrested by the police on 06.11.2020....”

Learned counsel for the petitioner has argued that after arrest of the petitioner on 22.04.2015, he was released on interim regular bail on 17.08.2015 and on 29.03.2017, he was declared as proclaimed offender and he was again sent in custody w.e.f. 06.11.2020 and since then he is in custody. Learned counsel states that the alleged contraband (60 grams of Alprazolam) falls in non-commercial quantity and the petitioner is not involved in any other case of similar nature. He prays that the petitioner be released on bail during pendency of the trial.

the petitioner was declared as proclaimed offender vide order dated 29.03.2017, but it is not disputed by him that the recovered contraband falls within the ambit of non-commercial quantity. He, on instructions, states that the petitioner is not involved in any other case of similar nature and out of total ten prosecution witnesses, only three witnesses have been examined so far.

After hearing the learned counsel for the parties and considering the above background, particularly the custodial period of the petitioner, his further detention behind the bars may not be necessary for any useful purpose. Apart from it, the material witnesses are police officials and at present there does not seem to be any possibility of their being won over.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail in the above case, subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

The petition is allowed.

21.02.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No