

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-55384-2022

Date of Decision: 05.12.2022

SANDEEP SINGH ALIAS SEEPU

....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

**CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI**

Present: Mr. G.S. Sandhu, Advocate  
for the petitioner.

Mr. Shiva Khurmi, AAG, Punjab.

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**JASGURPREET SINGH PURI, J. (Oral)**

The present petition has been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No. 222 dated 10.08.2021, under Section 22(C) of the NDPS Act, registered at Police Station Lambi, District Sri Muktsar Sahib.

Learned counsel for the petitioner submits that the petitioner is in custody from 10.08.2021, which is almost 1 year and four months. He has submitted that after the completion of the investigation, charges were framed on 06.01.2022 but till date not even a single witness has been examined despite the fact that all witnesses are the official witnesses and the matter pertains to the provisions of NDPS Act, where normally the official witnesses except where the independent witnesses etc., are to be examined but the criminal law is brought into motion by the official witnesses only i.e. the police officials and they chose not to depose before the Court for a long period of time. It is further submitted that even as per the allegations, the petitioner and the other co-

accused were caught from the bus-stand and the allegation was that they were holding one bag which after seeing the police party, they had thrown it on the ground from where the recovery was made. Learned counsel further submitted that no recovery has been effected from the conscious possession of the petitioner and in fact it is a case where the petitioner is not involved in any other case and is not a habitual offender.

He has submitted that the charges in the present case were framed on 06.01.2022 and thereafter, about 14 adjournments have been granted by the trial Court but not even a single witnesses has been examined despite repeated summons being issued to them, who are the official witnesses including the police party and rather every time they remained unserved.

Learned counsel has further submitted that the other co-accused namely Sewak Singh had also filed a regular bail petition before this Court i.e. CRM-M-7333-2022 and this Court had extended the benefit of regular bail to the aforesaid Sewak Singh on 20.09.2022, after considering all the aforesaid factors especially that for a long time, the prosecution witnesses have not been examined. It is further submitted that the aforesaid order pertaining to the other co-accused, whereby he was granted bail by this Court vide order dated 20.09.2022, at that point of time, 10 dates had elapsed after the framing of charges and due to that reason also, the co-accused was granted bail. It is submitted by learned counsel for the petitioner that thereafter, four more adjournments have been granted and now 14 adjournments have been granted but till date, no prosecution witness has been examined. He further submitted that the present petitioner is at parity with the aforesaid co-accused, therefore, the petitioner may be considered for grant of regular bail.

On the other hand, learned Assistant Advocate General, Punjab

has stated that petitioner is in custody from 10.08.2021 and 14 adjournments have been granted by the trial Court after the framing of charges but not even a single witness has been examined by the prosecution. On query being raised to the State counsel, what is the justification as to why the prosecution witnesses have failed to appear before the trial Court. He, after taking instructions from ASI Gurmeet Singh, who is present in Court, could not give any reasonable justification as to why the official witnesses, who are basically police officials, who set the criminal law into motion did not depose before the trial Court for a long period of time.

So far as the parity with the other co-accused namely Sewak Singh is concerned, the learned State counsel has not disputed the same and he has also submitted that the petitioner is not involved in any other case.

I have heard the learned counsel for the parties.

The petitioner is in custody from 10.08.2021 and is also stated to be in parity with the other co-accused namely Sewak Singh, who has been extended the benefit of bail by this Court vide order dated 20.09.2022. The petitioner is stated to be not involved in any other case. Since, there was a recovery of 7500 tablets of Tramadol and 17 vials of Cocrex, this Court would, therefore, consider the same in the light of Section 37 of the NDPS Act, since the aforesaid quantity is a commercial quantity under the NDPS Act. The effect of Section 37 of the NDPS Act was also considered by this Court in the bail petition pertaining to the other co-accused Sewak Singh.

After hearing learned counsel for the parties and considering the fact that after the framing of charges, 14 times the trial Court had adjourned the case but no witness has been examined till date, despite repeated summons issued to witnesses, would lead to an adverse inference and also make this

Court to have reasons to believe that prima facie the petitioner is not guilty of an offence. Apart from the above, the petitioner is stated to be not involved in any other case and is not a habitual offender. Furthermore, it is not the case of the State counsel that in case the petitioner is released on bail, he may influence any witness or may tamper with evidence or may flee from justice or may repeat the offence. Therefore, both the ingredients for making departure from the bar contained under Section 37 of the NDPS Act have remained satisfied.

In view of the aforesaid totality of facts and circumstances, this Court deems it fit and proper to grant regular bail to the petitioner.

Consequently, the present petition is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned, if not required in any other case.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

**05.12.2022**

*Poonam Negi*

**(JASGURPREET SINGH PURI)**  
**JUDGE**

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|--------------------|---|--------|
| Whether speaking   | : | Yes/No |
| Whether reportable | : | Yes/No |