

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

218

CRM-M-57448-2022 (O&M)
Date of decision: 15.12.2022

HARMAIL SINGH

....Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. P.S. Sekhon, Advocate
for the petitioner.

Mr. Kamalpreet Bawa, AAG, Punjab.

AMAN CHAUDHARY. J.

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in respect of FIR No.175 dated 03.12.2020 under Sections 22 and 29 of the NDPS Act registered at Police Station Shambu, District Patiala.

Learned counsel contends that the petitioner is in custody for 02 years and 03 days. He submits that there is non-compliance of Section 42 and 50 of the NDPS Act in the present case. He further submits that charges have been framed, however, only 2 out of 18 witnesses have been examined. He further contends that co-accused has already been granted bail by this Court vide order dated 06.12.2022 passed in *CRM-M-10302-2022 titled as Parmeshwar Singh vs. State of Punjab*. He argues that the petitioner is not involved in any other similar case under the NDPS Act and has placed reliance on the order of Hon'ble the Supreme Court in case of **Rahim Mondal and another vs. The State of West Bengal**, in a case of commercial quantity in

view of custody of 02 years, wherein 03 out of 8-9 witnesses had been

examined, bail has been granted.

Learned State counsel has produced the custody certificate dated 14.12.2022, which is taken on record. As per the same the custody of the petitioner is 02 years and 03 days.

Learned State counsel opposes the bail on the ground that the petitioner was apprehended on the spot along with his brother who was found in possession of commercial quantity of contraband. However, he is unable to controvert the fact that petitioner is in custody for last 02 years and 03 days; he is not involved in any other similar case under the NDPS Act and in all there are 18 witnesses out of whom only 02 have been examined.

Heard.

In view of the facts and circumstances of the case, in particular that the petitioner has been in custody for last 02 years and 03 days; co-accused has already been granted bail by this Court; only 02 out of 18 witnesses have been examined, the trial is likely to take a considerable time, his further detention behind bars would not serve any useful purpose, thus the present petition for grant of regular bail deserves to be allowed.

As a result, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned and subject to him not being required in any other case. The petitioner shall abide by the following conditions:-

1. The petitioner will not tamper with the evidence during the trial.
2. The petitioner will not pressurize/ intimidate the prosecution witnesses.
3. The petitioner will appear before the trial Court on each and

- every date fixed, unless is exempted by a specific order of Court.
- 4. The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.
 - 5. The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/ her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.
 - 6. The petitioner shall not in any manner misuse his liberty.
 - 7. The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.
 - 8. The petitioner shall deposit his passport, if any, with the Trial Court forthwith and in case, he does not have the passport, he shall furnish a specific affidavit in this regard.

It is made clear that in case of any infraction of any of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

In view of the above, this Court makes it clarified that the observations made herein above are limited for the purpose of present proceedings and would not be construed as any opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

(AMAN CHAUDHARY)
JUDGE

December 15, 2022
P.Bhatt

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No