

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

234

CRM-M-58721 of 2022
Date of Decision:21.12.2022

Jatinder Kumar

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Naveen Sharma, Advocate,
for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

JASGURPREET SINGH PURI, J. (Oral)

The present is a third petition filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.25 dated 10.02.2021, under Sections 20 and 29 of the NDPS Act, registered at Police Station Shambhu, District Patiala.

It has been submitted by the learned counsel for the petitioner that the petitioner is in custody from 16.02.2021, which is about one year and ten months. He submitted that in the present case the allegations were that two co-accused were apprehended by the police in a car which belongs to the petitioner and from the car there was a recovery of 30 kgs. of Ganja and it was on the basis of the disclosure

statements of the aforesaid co-accused the name of the present petitioner was nominated and thereafter allegedly there was a recovery of 1 kg of Ganja from the petitioner. He submitted that in fact the petitioner has been falsely implicated only because of the reason that the car belongs to the petitioner and the recovery of 1 kg. of Ganja was planted upon the petitioner and even otherwise also it falls under the small quantity. He submitted that there is no other sufficient material available with the police to connect the petitioner with the present offence except for the aforesaid disclosure statement of a co-accused which is otherwise not admissible in evidence in view of the law laid by the Hon'ble Supreme Court in a judgment of **Tofan Singh versus State of Tamil Nadu 2021 (1) RCR (Criminal) 1**. He further submitted that although the challan has been presented in the present case but the other co-accused had absconded and they were declared as proclaimed offenders and therefore the proceedings have not commenced as yet but at the same time the petitioner has already faced incarceration for about one year and ten months and in view of the aforesaid factual position, there is likelihood that the trial will progress at slow pace and therefore the petitioner cannot be kept in custody for the unlimited time and therefore he may be considered for the grant of regular bail.

On the other hand, Mr. Kunal Vinayak, learned AAG, Punjab has stated that it is correct that petitioner is in custody from 16.02.2021, which is about one year and ten months and the name of the petitioner was nominated on the basis of the disclosure statement of the co-accused who have absconded and that was the reason as to why there is a delay and the trial has not commenced. He has however submitted that the petitioner is involved in two more cases under the NDPS Act.

I have heard the learned counsel for the parties.

The petitioner has faced incarceration for about one year and ten

months and as per the learned counsel for the parties, the name of the petitioner was nominated on the basis of disclosure statement of the co-accused who had absconded and thereafter the charges have not been framed till date and therefore the trial has not been initiated as yet. Therefore considering the aforesaid factual position whereby the petitioner has already faced incarceration for about one year and ten months and from the petitioner there was allegedly recovery of only 1 Kg of Ganja which falls under the small quantity, coupled with the fact that the trial of the case if any may take long time because even the charges have not been framed as of date, the petitioner deserves the concession of regular bail.

In view of the aforesaid facts and circumstances, this Court deems it fit and proper to grant the concession of regular bail to the petitioner. Consequently, the present petition is allowed. The petitioner shall be released on regular bail if not required in any other case subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

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

(JASGURPREET SINGH PURI)
JUDGE

December 21, 2022

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Whether speaking	:	Yes/No
Whether reportable	:	Yes/No