

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

213

CRM-M-718-2023 (O&M)
Decided on : 24.03.2023

Sarabjeet Singh @ Sarbi

. . . Petitioner(s)

Versus

State of Punjab

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Jashandeep Singh Sandhu, Advocate
for the petitioner.

Mr. Anmol Singh Sandhu, AAG, Punjab.

SANJAY VASHISTH, J. (Oral)

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail to petitioner, namely, Sarabjeet Singh @ Sarbi, aged 30 years, who has been booked for having committed the offence punishable under Section 22 (c) of NDPS Act, in case FIR No. 41 dated 10.03.2022, registered at Police Station Kotwali Bathinda, District Bhatinda, Punjab.

2. Learned counsel for the petitioner submits that petitioner has been falsely implicated in the present case and the story propounded by the prosecution itself is highly doubtful. Counsel submits that as per allegations mentioned in the FIR, total 2000 intoxicant tablets of *Tramadol* are alleged to have been recovered from the petitioner, which he was carrying in transparent polythene bag in his hand, openly in the public place. Counsel further submits that petitioner has studied upto 10+2 and being unemployed, is involved in the agricultural work only. He further submits that except the present case, there is no other case against the petitioner under the NDPS

Act, showing his involvement in any manner.

3. Counsel further submits that in regard to circumstances which are detailed in FIR, Hon'ble co-ordinate Benches of this Court, have already considered the similar situation and granted bail to the accused in such cases. Counsel refers to the order dated 18.11.2021 passed by Hon'ble Mr. Justice Gurvinder Singh Gill. in CRM-M-15846-2020, CRM-M-23032-2020 and CRM-M-23702-2020.

Relevant paragraph No. 6 of the said order says as under:-

“The contention raised on behalf of the petitioners regarding the improbability of the prosecution version inasmuch as the accused are alleged to be carrying contraband in a transparent polythene bag, which could easily be detected cannot be brushed aside lightly. In any case, the petitioners have been behind bars for a substantial period of about 1 year and 11 months. They are not even stated to be involved in any other case. Further detention of the petitioners will not serve any useful purpose as conclusion of trial is likely to consume time as only 1 out of the cited 9 PWs has been examined so far. All the three petitions, as such, are accepted and the petitioners are ordered to be released on regular bail on their furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.”

Learned counsel also relies upon the order dated 24.08.2022 passed by Hon'ble Mr. Justice Vikas Bahl, in CRM-M-2691-2022 (**Ravi Kumar v. State of Punjab**). Thus, counsel seeks regular bail of the petitioner.

4. On the other hand, learned State counsel has furnished the custody certificate dated 22.03.2023. Same is taken on record. Registry is directed to tag the same at appropriate place.

Learned State counsel submits that as per said custody certificate, petitioner has completed the actual custody period of 01 year 08 days and no other case under NDPS Act is shown to have been ever registered against him. Thus, State counsel admits that as per custody certificate, petitioner is not involved in any other similar activity. However, two other cases under the Excise Act, are pending against him.

5. State counsel also informs this Court that after completion of the investigation, final report under Section 173 (2) Cr. P. C. was submitted on 07.06.2022 and charges were framed on 06.07.2022 against the petitioner. However, there is no denial that out of total 11 prosecution witnesses, none has been examined till date.

6. I have considered the submissions of both the sides, and perused the case file.

7. Thus, considering the submission of both the sides and the facts recorded here above, I do not find any reason to keep the petitioner inside jail for an indefinite period, especially when prosecution evidence is yet to start.

Undoubtedly, completion of trial may take considerable time. Otherwise also, truthfulness of the allegations mentioned in the FIR is yet to be ascertained, after completion of the trial and the fact that petitioner has already undergone more than one year of custody period, no purpose can be achieved by keeping the petitioner inside jail for indefinite period. Therefore, present petition is **allowed**.

8. Accordingly, petitioner is ordered to be released on bail in this case, subject to the furnishing of bail/surety bonds to the satisfaction of the

learned Trial Court/Duty Judge/Chief Judicial Magistrate/ Illaqa Magistrate/
Duty Magistrate concerned, if not required in any other case.

9. Observations made here-in-above shall not be construed as an
expression on the merits of the case and the Trial Court shall decide the case
on the basis of evidence available on record.

10. However, it is made clear that in future, if the petitioner is found
involved in any other case of similar nature, respondent-State would be at
liberty to take necessary steps for cancellation of bail granted to the petitioner
in present case.

11. Petition stands disposed of.

(SANJAY VASHISTH)
JUDGE

24.03.2023

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Whether speaking/reasoned: Yes/~~No~~

Whether Reportable: Yes/~~No~~