

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-1628-2023 (O&M)

Date of decision: 08.02.2023

AMRITPAL SINGH @ BITTU

....Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Anupreet Singh Sidhu, 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.0321 dated 28.06.2021 under Sections 22 and 25 of the NDPS Act (Section 29 of the NDPS Act added later on) registered at Police Station City Barnala, District Barnala.

Learned counsel contends that the petitioner is in custody since last 1 year and 06 months and 23 days. He was not named in the FIR, however, his name surfaced based on second disclosure statement of co-accused Kapoor Singh. Co-accused Amrit Singh @ Gautam, whose name had also surfaced on first disclosure statement of co-accused Kapoor Singh had been granted anticipatory bail by this Court vide order dated 19.01.2022, Annexure P-3. Though he is involved in other cases, which have been foisted on him while he was in custody, however in those cases also his name surfaced on disclosure statement and in one of the said cases, he is on bail. In this regard he relies on the judgment dated 16.01.2012 passed by Hon'ble The Supreme Court of India in Criminal Appeal No.159 of 2012 titled as ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and others, 2012(2) SCC 382.***

Charges have been framed on 27.03.2022, however out of 19 prosecution witnesses

only 01 has been examined.

Learned State counsel has produced the custody certificate dated 07.02.2023 which is taken on record. He opposes the bail on the ground that the petitioner was specifically named by the co-accused Kapoor Singh in his disclosure statement. He is however unable to controvert the submissions made by learned counsel for the petitioner regarding the stage of the trial and grant of bail to co-accused similarly situated to the petitioner.

Heard.

Hon'ble The Supreme Court of India in the case of **Maulana Mohd. Amir Rashadi** (*Supra*) had observed as under:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

In view of the above and facts and circumstances of the case, in particular that the petitioner is in custody since last 1 year and 06 months and 23 days; his name surfaced based on second disclosure statement of co-accused Kapoor Singh; other co-accused whose name also surfaced on disclosure statement of co-accused Kapoor Singh had been granted anticipatory bail by this Court; charges have been framed on 27.03.2022, however, only 01 out of 19 prosecution witnesses has 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 abundantly clear that in case there is any breach of the aforesaid conditions and in case the petitioner commits similar offence in future, 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

February 08, 2023
S.Sharma(syr)

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