

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-2959-2023

Date of Decision: 07.02.2023

Satwinder Singh @ Bagga

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. S.S. Khokher, Advocate for the petitioner.

Mr. Jaspal Singh Guru,
Assistant Advocate General, Punjab.

ASHOK KUMAR VERMA, J. (ORAL)

Custody certificate dated 06.02.2023, filed by learned counsel for the State is taken on record.

The petitioner has filed the present petition under Section 439 for grant of regular bail in case FIR No. 56 dated 23.08.2018 registered under Section 22 of the NDPS Act, 1985 at Police Station Dhilwan, District Kapurthala.

Briefly, the petitioner along with his co-accused was apprehended with conscious possession of 110 grams of intoxicant powder containing salt "Tramadol Hydrochloride", without any permit of licence. Earlier, he was granted interim regular bail by the trial Court vide order dated 31.10.2018 which was made absolute vide order dated 09.05.2019 (Annexure P-2) by the trial Court. On 13.01.2020, the

petitioner remained absent and his bail/surety bonds were forfeited to the State. The petitioner had applied for grant of anticipatory bail before this Court by filing CRM-M-21115-2021, which was dismissed vide order dated 27.05.2021, with a direction to the trial Court that in case, the petitioner surrenders within one week his bail application shall be decided within three days. However, he could not surrender before the trial Court within the stipulated time and had approached the Hon'ble Supreme Court by filing SLP (Criminal) Diary No. 27458 of 2022, which was also dismissed by the Apex Court on 23.09.2022. Thereafter, the petitioner again approached this Court by filing CRM-M-60303-2022 which was dismissed as withdrawn vide order dated 22.12.2022 (Annexure P-8), with liberty to the petitioner to surrender before the trial Court within two weeks and the trial Court was directed to decide his bail application on the same day. Thereafter, the petitioner had surrendered before the trial Court on 04.01.2023 and moved an application for grant of regular bail which was dismissed by the trial Court vide order date 04.01.2023 (Annexure P-9). Hence, the present petition.

Learned counsel for the petitioner, *inter alia*, submits that earlier the petitioner was granted concession of interim regular bail vide order dated 31.10.2018 by the trial Court which was made absolute vide order dated 09.05.2019 (Annexure P-2). On 13.01.2020, the petitioner could not appear before the trial Court due to nation wide lockdown and the trial Court had cancelled his bail and his bail/surety bonds were forfeited to the State. His absence was not intentional or deliberate. The petitioner is in custody since 04.01.2023. He is suffering from 55%

disability as per Unique Disability ID dated 16.04.2022 (Annexure P-3). He is ready to face the trial and undertakes to appear on each and every date before the trial Court. He is ready to pay costs of Rs.10,000/-. No prejudice is going to be caused to the prosecution if an opportunity is granted to the petitioner.

On the other hand, learned counsel for the respondent-State submits that State has no objection if the present petition is disposed of, subject to costs.

Intent of arrest and reason of denial of bail is to secure the appearance of the accused at the time of trial. A person who seeks to be liberated must take judgment and serve sentence in the event of his conviction. The nature of the crime charged, severity of punishment prescribed, prime facie available evidences, history & background of the accused may indicate that any amount of bond and surety is not going to secure presence of accused, at the time of conviction.

Keeping in mind:

- (i) The object of cancellation of bond or declaration of anyone as proclaimed offender/person is to secure his presence. The petitioner has come forward to face trial and undertakes to appear before trial court on each and every date, thus, his presence would meet ends of justice;
- (ii) The petitioner was granted concession of regular bail, vide order dated 09.05.2019 (Annexure P-2) passed by the Judge, Special Court Kapurthala;
- (iii) The petitioner for wasting valuable time and energy of courts as well prosecution is willing to pay costs of Rs.10,000/-;
- (iv) The petitioner is ready to furnish bond/surety to the satisfaction of the trial court;

- (v) The petitioner is resident of Kapurthala and trial is pending at Kapurthala, thus jurisdictional court and police authorities have direct access over the activities of the petitioner;
- (vi) The quantity of drugs recovered from the petitioner is not commercial quantity;
- (vii) Trial is pending since 2018 and petitioner is ready to face trial, thus, no prejudice is going to be caused to prosecution or complainant;

In view of the above, this Court is of the considered opinion that present petition needs to be allowed, and accordingly, the same is allowed. Petitioner-Satwinder Singh @ Bagga, is ordered to be released on regular bail on furnishing of bail/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate concerned. The petitioner, as agreed, shall pay costs of Rs.10,000/- to the District Legal Services Authority, Kapurthala.

February 07, 2023
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(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No