

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

213

CRM-M-3625-2023 (O&M)

Date of decision: 17.05.2023

Sachin

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Amandeep Singh Manaise, Advocate for the petitioner.

Mr. Manipal Singh Atwal, DAG Punjab.

AMAN CHAUDHARY. J.

1. The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in case of FIR No.50 dated 23.08.2022, registered under Sections 21(a), 22, 29, 27-A of NDPS Act, at Police Station Dorangla, District Gurdaspur.

2. Learned counsel contends that the petitioner is in custody for the last 6 months. The name of the petitioner surfaced based on disclosure statement of co-accused Sapna, who has since been granted regular bail by this Court after having custody of 5½ months. From her non-commercial quantity of contraband was allegedly recovered while she was coming on foot holding a polythene bag in her hand that she had thrown away wherefrom 5 grams of heroin and 270 unlabelled peach coloured intoxicating tablets along with Rs.40,000/- cash were recovered. The petitioner is involved in another case under the NDPS Act, wherein the alleged recovery effected was non-commercial quantity of contraband. He has been granted regular bail in the said case. He relies on the

judgment of Hon'ble The Supreme Court in **Maulana Mohd. Amir Rashadi vs. State of U.P. and others**, 2012(2) SCC 382. Charges were framed on 17.02.2023, however, none out of 10 prosecution witnesses have been examined.

3. The custody certificate dated 16.05.2023 has been filed by learned State counsel. As per the same, the petitioner is behind bars for the last 6 months and 2 days.

4. Learned State counsel opposes the bail on the ground that the non-commercial quantity of contraband had been recovered from the co-accused, who is wife of the petitioner and that he is involved in one more case under the NDPS Act. He is however unable to controvert the submissions with regard to stage of the case, the petitioner is on bail in the other case registered against him, as also the recovery of non-commercial quantity of contraband and that the co-accused has been granted bail.

5. Heard.

6. Hon'ble The Supreme Court of India in the case of **Maulana Mohd. Amir Rashadi** (*Supra*) had held that, "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."

7. In view of the afore-referred judgment and facts and circumstances of the case, in particular that the petitioner is in custody for the last 6 months and 2 days; co-accused has been granted regular bail; petitioner is on bail in the other case, wherein he is involved; though the charges were framed on 17.02.2023,

however, out of 10 prosecution witnesses, none have yet been examined; the trial is likely to take a considerable time, his further incarceration would not serve any useful purpose, thus the present petition for grant of regular bail deserves to be allowed.

8. 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 his 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.

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

10. In view of the above, it is 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

May 17, 2023
M.Kamra

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