

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

236

CRM-M-3553-2023
Date of decision: 07.02.2023

KALU LAL

....Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. P. S. Sekhon, Advocate
for the petitioner.

Mr. Manipal Singh Atwal, DAG, 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. 100 dated 18.06.2021 under Sections 15-C and 29 of the NDPS Act, 1985 registered at Police Station Sangat, District Bathinda.

Learned counsel for the petitioner contends that the petitioner has been in custody since 24.06.2021. The co-accused was granted anticipatory bail by this Court vide order dated 11.11.2021 in CRM-M-32166-2021, Annexure P-4. There is non compliance of Section 50 of the NDPS Act inasmuch as the entire documentation is in Punjabi, a language not known to the petitioner as he is the resident of Rajasthan. Charges have been framed on 27.07.2022, however, none out of 14 prosecution witnesses have been examined; the petitioner is not involved in any other case. He further relies on the judgments of this Court in CRM-M-22718-2021 titled as Ashok Kumar @ Shoky Vs. State of Punjab and

CRM-M-51938-2021 titled as Mohd. Sharif Vs. State of Punjab wherein also the recovery was same as in the present case and the petitioner therein have been granted regular bail after having been in custody for almost 1 year.

Learned State counsel has filed custody certificate, same is taken on record, as per which the petitioner is in custody since last 1 year, 7 months and 15 days. He opposes the bail on the ground that the recovery effected from the petitioner is of commercial quantity. However, he is unable to controvert the other submissions made by learned counsel for the petitioner in particular with regard to grant of anticipatory bail of the co-accused as also the stage of the trial and that the petitioner is not involved in any other case.

Heard.

In view of the facts and circumstances of the case, in particular that the petitioner has been in custody since 24.06.2021; the co-accused have been granted the concession of anticipatory bail; the petitioner is not involved in any other case and charges have been framed on 27.07.2022 and none out of 14 prosecution witnesses have been examined and 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 clear that in case of any infraction of any of the aforesaid conditions, 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

07.02.2023
Mehak

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