

2023:PHHC:048038

**263 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-4014-2023
Date of Decision: 10.04.2023

Gurpreet Singh alias LovelyPetitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present:- Mr. Ruhani Chadha, Advocate,
 for the petitioner.

 Mr. G.S.Sandhu, DAG, Punjab.

ASHOK KUMAR VERMA, J. (Oral)

Petitioner has filed this second petition under Section 439 Cr.P.C for grant of regular bail pending trial in case FIR No.186 dated 11.09.2019 registered under Section 18 Narcotic Drugs and Psychotropic Substances Act, 1985 (Section 29 NDPS Act added later on) at Police Station Goraya, District Jalandhar.

As per the prosecution case, 3 kg 550 grams opium was recovered from the conscious possession of the petitioner and his co-accused-Karamjit Singh alias Karanjit Singh by police while it was on patrolling.

Learned counsel for the petitioner has argued that as per the prosecution, the petitioner along with his co-accused was found in possession of 3 kg 550 grams opium, but after commencement of trial out of total 14 prosecution witnesses only one witness has been examined so far, which fact is also clear from the zimni orders passed by the trial Court

after 30.01.2023 to 29.03.2023. He further contends that despite repeated issuance of warrants against the witnesses (police officials), the witnesses are not appearing before the Court and the trial is being prolonged unnecessarily and the petitioner is in custody for the last more than 3 years. He further submits that the co-accused of the petitioner Karamjit alias Karanjit Singh has already been granted regular bail by a co-ordinate bench of the Court on 09.01.2023 (copy Annexure P-4). Hence he prays for grant of regular bail to the petitioner also during the pendency of the trial.

On the other hand, learned State counsel has opposed the prayer and argued that the recovered contraband falls under the category of 'commercial quantity'. However, it is not disputed by learned State counsel that after framing of charges on 09.03.2021, only one prosecution witness has been examined out of total 14 witnesses, and the case is now fixed before the trial Court for recording the remaining prosecution witnesses on 19.04.2023.

After hearing learned counsel for the parties and considering the above background, custody of the petitioner as per the custody certificate dated 08.04.2023 produced in Court today and also the fact that the co-accused has also been granted regular bail on 09.01.2023 by a co-ordinate bench of this Court and the fact that despite issuance of warrants, the prosecution witnesses are not appearing before the trial Court, this Court is of the opinion that further detention of the petitioner behind the bars would not be justifiable as the trial is to take considerable time to conclude, as still thirteen prosecution witnesses remain to be examined. Apart from it, the remaining prosecution witnesses are police officials and at present, there

does not seem to be any possibility of their being won over.

Therefore, without expressing any opinion on the merits of the case, the petition is allowed. The petitioner-Gurpreet Singh alias Lovely is ordered to be released on regular bail on his furnishing requisite bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

(ASHOK KUMAR VERMA)
JUDGE

April 10, 2023
dharamvir

Whether speaking/reasoned : YES/NO
Whether Reportable : YES/NO