

CRM-M-5381 of 2023

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

CRM-M-5381 of 2023
Date of decision: 04.07.2023

Sonu

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Rishav Jain, Advocate,
for the petitioner.

Ms. Anju Sharma Kaushik, DAG, Punjab.

NAMIT KUMAR, J. (ORAL)

1. This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case FIR No.109 dated 10.07.2022 under Section 21/61 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Division No.4, District Patiala.

2. As per FIR, on 10.07.2022 a police party was present at T-Point of Gurudwara Sahib, Patiala, and at about 7.00 p.m. the police party saw a young person aged about 27 years coming along with a plastic bag in his right hand. When the said boy was tried to be stopped he threw the plastic bag on the road and ran away from the spot. On search, 50 grams of smack was recovered from the said plastic bag. Petitioner was arrested on 10.10.2022.

3. Learned counsel for the petitioner submits that petitioner is

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innocent and has been falsely implicated in the present case. He was not arrested from the spot and no recovery has been effected from the petitioner. He further submits that alleged recovery has been planted upon the petitioner. He further submits that alleged recovery of 50 grams of smack falls under the category of “non-commercial quantity”. He further submits that investigation in the present case is complete; challan has been presented; charges have been framed; out of total 14 prosecution witnesses none has been examined and the case is now fixed before the trial Court on 29.07.2023. He submits that petitioner is in custody since 10.10.2022 and trial may take a considerable time to conclude. Therefore, no fruitful purpose would be served by detaining the petitioner behind bars.

4. Per contra, learned State counsel while placing on record the status report dated 03.07.2023 has opposed the prayer for grant of regular bail to the petitioner by submitting that petitioner is a habitual offender as he is involved in ten more cases. However, she could not refute that in the said cases the petitioner is on bail and the alleged recovery falls under the category of “non-commercial quantity”; investigation in the present case is complete; challan has been presented; charges have been framed; out of total 14 prosecution witnesses none has been examined; petitioner is in custody for the last about nine months and trial may take a considerable time to conclude.

5. Learned counsel has relied upon the judgment of Hon'ble Supreme Court in ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and another, 2012 (2) SCC 382*** to contend that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the

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petitioner is involved in other cases. The relevant portion of the said judgment is reproduced hereinbelow:-

“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.”

6. I have heard learned counsel for the parties and perused the record.

7. Keeping in view the custody of the petitioner, which is about nine months; investigation is complete; challan has been presented; charges have been framed and out of 14 prosecution witnesses, none has been examined as yet and trial is likely to take a considerable time to conclude, however, without commenting upon the merits of the case, the petitioner is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

8. The petition stands disposed of accordingly.

04.07.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No