

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

CRM-M-5696-2021 (O&M)

Date of decision : 17.01.2023

Sunny

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. J.S. Sandhu, Advocate for the petitioner.

Mr. Kunal Muthreja, AAG Punjab.

ALKA SARIN, J. (ORAL)

This is the second petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.143 dated 29.12.2019 under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Sadar Abohar, District Fazilka. The first petition [CRM-M-5456-2020] was dismissed as withdrawn on 07.12.2020.

Learned counsel for the petitioner would contend that the petitioner has now been in custody for a period of 2 years, 8 months and 3 days. It is further the contention of learned counsel that the co-accused - Vipin Kumar @ Vipin Midda - who was arrested along with the petitioner, was granted bail by the Trial Court on 17.02.2020. Learned counsel for the petitioner would further contend that though the challan was filed on

24.04.2020, however, till date, out of 11 witnesses only 2 have been examined.

Per contra, learned counsel for the respondent-State, on instructions from ASI Jaswinder Singh, has contended that there are various other cases pending against the petitioner. He is, however, not in a position to deny the fact that the co-accused - Vipin Kumar @ Vipin Midda - was granted bail by the Trial Court on 17.02.2020. He is also not in a position to deny that till date out of 11 witnesses only 2 have been examined.

Heard.

In the present case, the petitioner has now been in custody for a period of about 2 years and 8 months. It has been pointed out by learned counsel for the petitioner that in the cases under the Punjab Excise Act, 1914, the petitioner has already undergone the sentence period. Qua the cases under the NDPS Act, learned counsel would contend that in FIR No.58 of 2019 and FIR No.151 of 2018, the petitioner is already on bail. In FIR No.94 of 2015 and FIR No.19 of 2020 the petitioner stands acquitted/discharged.

In view of the above and keeping in view the long period of incarceration as well as the fact that despite the challan having been filed on 24.04.2020 till date out of 11 witnesses only 2 have been examined and the trial is likely to take some time to conclude, no useful purpose would be served by keeping the petitioner behind the bars any further. Without commenting upon the merits of the case, I deem this to be a fit case to grant

the concession of regular bail to the petitioner. The petitioner is directed to

be released on bail subject to his furnishing bail bonds/surety bonds with heavy surety to the satisfaction of the Trial Court/Judge, Special Court, concerned.

However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

Disposed off accordingly. Pending applications, if any, also stand disposed off.

17.01.2023
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO