

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.241

CRM-M-5802-2023

Date of decision: 03.02.2023

Gurjeet Singh

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. C.S. Jattana, Advocate, for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana.

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DEEPAK SIBAL, J. (Oral)

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail in FIR No.526 dated 09.07.2015 registered under Sections 21, 61 and 85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short – the NDPS Act) at Police Station City Sirsa, District Sirsa.

Briefly stated, the prosecution's case is that on 18.07.2015, two persons were coming on a scooty. When they saw a police party they tried to turn back their scooty but the same stopped. On suspicion, the police party apprehended the driver and the pillion rider. The driver was identified as Jagdeep Singh @ Deepu and the pillion rider as the petitioner. Their search resulted in the recovery of 31 grams of heroin from Jagdeep Singh @ Deepu and 10 grams of heroin from the petitioner. As they were found to be in illegal possession of the heroin they both were arrested and sought to be prosecuted under the NDPS Act.

Seeking regular bail for the petitioner Mr. Jattana submits that in the FIR in question the petitioner sought and got bail; thereafter, he left the country for Macao and then to Australia; in the meanwhile, he was declared a proclaimed offender; while in Australia, the petitioner underwent a three year Certificate/Diploma Course in Automotive Engineering; in the meanwhile, co-accused Jagdeep Singh @ Deepu faced trial and earned honourable acquittal; on coming to India, the petitioner approached this Court through CRM-M-1893-2023 – Gurjeet Singh vs. State of Haryana, seeking therein quashing of the order dated 13.10.2017 through which he

had been declared a proclaimed offender; this Court disposed of his petition on 13.01.2023 directing him to surrender before the trial court within 10 days with a further direction to the trial court that in case he surrenders within the allocated time his petition for regular bail be decided on the same day; the petitioner was further burdened with costs of Rs.20,000/-; the petitioner deposited the awarded costs and surrendered before the trial court on 23.01.2023 as 22.01.2023 was a Sunday; since 23.01.2023 was the eleventh day, the trial court rejected the petitioner's plea for regular bail on this ground alone; the petitioner again sought bail before the trial court and this time in addition to the merits of the case he pleaded that it was his marriage on 07.02.2023 and therefore on that ground also he be granted regular bail and that the trial court wrongly rejected his prayer for regular bail and only granted him interim bail from 06.02.2023 to 12.02.2023 and that too so that he could undergo the ceremonies of his marriage.

Learned State counsel does not dispute the fact that the petitioner and his co-accused are similarly situated and that the trial court has acquitted the petitioner's co-accused but opposes the grant of bail to the petitioner on the ground that the petitioner's antecedents are not good as on an earlier occasion, after the grant of bail, he had fled the country without seeking any permission.

Learned counsel for the petitioner as also learned State counsel have been heard at length and with their able assistance the record of the case has also been perused.

The petitioner and his co-accused were sought to be prosecuted for illegal possession of non-commercial quantity of heroin; 10 grams of heroin was allegedly recovered from the petitioner; the case of the prosecution qua both the accused was identical; co-accused Jagdeep Singh faced trial and has been acquitted; the petitioner did not face trial because after securing bail he fled the country to successfully undergo a Certificate/Diploma Course in Australia; on account of his absence from his trial he was declared a proclaimed offender; on his return to India, he knocked the doors of this Court challenging therein the order of the trial court declaring him to be a proclaimed offender; in such petition, on 13.01.2023, this Court directed the petitioner to surrender before the trial court within 10 days; he did surrender on 23.01.2023 but since technically it

was the eleventh day, only on this ground, the trial court dismissed his plea for the grant of the regular bail; nonetheless, he had shown his *bonafides* by surrendering before the trial court; he has also deposited the costs as directed to be paid by this Court; the petitioner is in custody for the last 11 days and that it is also not disputed that his marriage is to take place on 07.02.2023.

In the light of the above, this Court is of the opinion that the petitioner deserves to be released on regular bail. Resultantly, subject to the satisfaction of the concerned CJM/Duty Magistrate, Sirsa, who shall insist upon two heavy local sureties and deposit of the petitioner's valid passport before him, the petitioner is directed to be released on bail.

It is further directed that the petitioner's trial shall be expedited and concluded within two months, in accordance with law. A report in this regard shall be sent to this Court by the trial court.

It is clarified that the above observations have been made only for the limited purpose of deciding the present regular bail application and the same would not be construed to be an expression of opinion on the merits of the case.

February 03, 2023
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(DEEPAK SIBAL)
JUDGE

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