

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

CRM-M-7503-2023 (O&M)

Date of decision: 05.07.2023

Jaspal Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Randhir Singh Thind, Advocate
for the petitioner.

Mr. Teevar Sharma, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

This is the third petition that has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 45 dated 30.06.2019, registered under Section 20 of the Narcotic Drugs & Psychotropic Substances Act, 1985 at Police Station Ghagga, District Patiala.

In the earlier petition bearing CRM-M-24220-2020, the petitioner was granted the concession of interim bail considering the COVID-19 situation in the country as well as the fact that no prosecution witness was examined. The petitioner availed of the interim bail from 01.09.2020 till 19.01.2023 and thereafter, he surrendered back and now he is facing trial.

While granting the concession of interim bail, it was considered that the petitioner was in judicial custody for 11 months and 25 days and the trial was not proceeding. It was also considered that the petitioner was not

arrested at the spot and later on, he was nominated on the disclosure of co-accused Jasvir Singh, who was apprehended at the spot and a recovery of 21 kgs of *Ganja* was effected from him.

Learned counsel for the petitioner submits that as on today, the custody of the petitioner is 01 year, 05 months and 07 days and in the intervening period, when he remained on interim bail for a period of about 2 ½ year, he has neither misused the concession of interim bail nor he is involved in any other case.

Learned counsel for the petitioner submits that in view of the judgments rendered by Hon'ble Supreme Court in *Tofan Singh vs. State of Tamil Nadu, (2021) 4 SCC 1* and *State By (NCB) Bengaluru vs. Pallulabid Ahmad Arimutta & Anr. 2022 Live Law (SC) 69*, it will be a matter of trial whether disclosure of the co-accused is admissible against the petitioner or not.

Learned State counsel, assisted by ASI Paramjit Singh, has filed the custody certificate and has submitted that the petitioner was earlier convicted in case case under the NDPS Act for a period of 10 years, however, his sentence was suspended in the year 2016. It is further submitted that out of total 13 prosecution witnesses, 05 witnesses have been examined so far.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the custody period of the petitioner as well as the fact that the petitioner was not arrested at the spot and he was nominated on the disclosure of a co-accused, subsequent to which, no recovery was effected from him; he has

not misused the concession of interim bail nor he is involved in any other case under the NDPS Act during the said period; conclusion of trial is likely to take some time as out of total 13 prosecution witnesses, only 05 witnesses have been examined so far and also in view of the ratio of law laid down in the aforesaid judgments relied upon by learned counsel for the petitioner, the present petition is allowed.

The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaqa Magistrate, concerned.

05.07.2023

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No