

IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH

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CRM-M-8558-2023 (O&M)

Date of Decision: 21.07.2023

AJAY KUMAR @ AJJU

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Lokesh Kumar Mishra, Advocate and
Mr. Sumit Kumar, Advocate
for the petitioner.

Mr. Gurdarshan Singh Sidhu, AAG, Punjab.

HARNARESH SINGH GILL, J.(Oral)

Through this fourth petition, the petitioner seeks regular bail in case bearing FIR No.13 dated 19.01.2015, registered under Section 379-B/392 and 120-B IPC, at Police Station Garhshankar, District Hoshiarpur, Punjab. The first and second petitions having been dismissed as withdrawn vide orders dated 12.08.2021 and 01.06.2022 and the third one having been dismissed on merits vide order dated 12.09.2022.

Learned counsel for the petitioner submits that the petitioner has falsely been involved in the present case, who has been in custody since 06.05.2021; that initially the FIR was registered against the unknown persons and that complainant, namely, Balvir Singh, while appearing as PW-1 before the trial Court on 05.07.2022 failed to identify the petitioner as accused in the present case and has turned hostile. He further submits that the petitioner has been indicted on the basis of the

disclosure statement co-accused, namely, Davinder @ Rinku, who has already been acquitted by the Court below vide judgment dated 23.01.2023; that the petitioner was initially granted the concession of regular bail by the learned Additional Sessions Judge, Hoshiarpur, vide order dated 16.04.2015 and since then, he was attending the Court proceedings regularly. However, due to some unavoidable circumstances, the petitioner was not able to appear before the trial Court and absented himself from the Court proceedings and was declared as a proclaimed person on 04.01.2018 and later on re-arrested on 06.05.2021.

Learned counsel for the petitioner further submits that as similarly situated co-accused, namely, Davinder Kumar @ Rinku, Rahul Sood and Satinder Singh @ Kala, have already been granted the concession of bail by the trial Court, the petitioner may be granted such concession, on the ground of parity.

On the other hand, learned State counsel, while opposing the prayer for grant of regular bail to the petitioner, does not dispute the aforesaid factual position. He, however, submits that the petitioner is a habitual offender with criminal antecedents, inasmuch as, 08 (eight) more FIRs, had been registered and/or pending against the petitioner, out of which 03 (three) are of the period during which the petitioner was absconding. He further submits that the first and the second bail petitions preferred by the petitioner was dismissed as withdrawn and the third was dismissed by this Court on merits and that in FIR No.41/2016 under the NDPS Act, the petitioner has been convicted by the learned trial Court

vide judgment dated 21.04.2023. He, thus, prays for dismissal of the present bail petition.

I have heard the learned counsel for the parties.

Though at one stage, the petitioner was declared as a proclaimed person, yet the fact remains that he has been in custody since 06.05.2021. Co-accused have already been enlarged on bail. Davinder Kumar @ Rinku, on who disclosure statement petitioner was indicted in the present case, stands acquitted by the Court below. No recovery was effected from the petitioner. Complainant, while appearing as PW-1 before the trial Court on 05.07.2022, has failed to identify the petitioner as accused and turned hostile. Some of the prosecution witnesses are yet to be examined. In such circumstances, the trial of the case would take a long time to conclude. Therefore, no useful purpose would be served by keeping the petitioner behind the bars.

This Court is conscious of the fact that there are other cases as well registered and/or pending against the petitioner and in one FIR he has been convicted. However, for the reasons recorded above, this Court is persuaded to grant the concession of regular bail to the petitioner.

In view of the above and without commenting anything on the merits of the case, lest it should prejudice the case of either side, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/Chief Judicial Magistrate concerned.

21.07.2023

Aman Jain

(HARNARESH SINGH GILL)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*