

212 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: 02.05.2023

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Ms. Ruchika Sabherwal, DAG, Punjab.

VIVEK PURI, J.(ORAL)

1. The petitioner is seeking regular bail in the case bearing FIR No. 267 dated 09.12.2019 under Sections 22 and 29 of the NDPS Act registered at Police Station Dirba, Sangrur.
2. Custody certificate has been placed on record.
3. Briefly, the FIR has been registered against Sukhwinder Pal Singh, co-accused, in pursuance of recovery of 1500 intoxicant tablets. The petitioner has been sought to be nominated on the basis of the confessional statement of the co-accused.
4. Learned counsel for the petitioner contends that at the first instance, the petitioner was granted pre-arrest bail in terms of the order dated 10.09.2020 passed by the Coordinate Bench of this Court in CRM-M-15336-2020, Annexure P-2. However, the petitioner failed to join the proceedings in the trial Court and his warrants of arrest have been issued. The petitioner had surrendered in the trial Court on 16.01.2023 and since then, he is in custody.
5. Learned State counsel has opposed the bail application on the score that the quantity of contraband recovered from the possession of the

petitioner falls in the category of commercial quantity and moreover, despite getting pre-arrest bail, the petitioner had failed to surrender and join the proceedings in the trial Court.

6. Be that as it may, the contraband has been recovered from the possession of the co-accused and the petitioner has been sought to be implicated on the basis of the confessional statement. The evidentiary value of such a statement will be a debatable and moot point during the course of trial. In such circumstance, the conditions as specified in Section 37 of the NDPS Act qua the petitioner can be relaxed. Custody certificate indicates that the petitioner is in custody for a period of 03 months and 15 days and not involved in any other case. The petitioner has undergone sufficient incarceration for the lapse on his part in absenting from the proceedings. The petitioner had surrendered of his own in the trial Court. The conclusion of trial is likely to take some and no fruitful purpose will be served by detaining the petitioner in further custody.

7. In such circumstances, sufficient grounds are made out to extend the concession of bail to the petitioner. Accordingly, without making any observation on the merits of the case, the present petition is allowed and petitioner is ordered to be released on bail, subject to his furnishing bail/surety bonds to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

02.05.2023
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(VIVEK PURI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No