

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

221

CRM-M-13489-2023 (O&M)

Date of decision: 16.08.2023

Juber

..Petitioner

Versus

State of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Balraj Gujjar, Advocate for the petitioner.

Mr. Baljinder Singh Virk, Sr. DAG, Haryana.

AMAN CHAUDHARY, J.

1. Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in FIR No.133 dated 02.09.2022, registered under Sections 20, 61, 85 of NDPS Act (Sections 420, 467, 468, 471, 259, 260 and 263 IPC added later on), at Police Station Bahin, District Palwal.

2. Learned counsel contends that the petitioner is in custody for the last 9 months. Co-accused Shokeen was arrested on 02.09.2022 and after 5 days, he in his first disclosure statement, named Junaid, however, in his second disclosure statement, the name of the petitioner surfaced. No recovery has been effected from the petitioner and he is not involved in any other case under NDPS Act. The allegation against him is that his phone was used by the main accused, regarding which he places reliance on order dated 06.04.2022 passed by the Co-ordinate Bench in **Vikrant Singh vs. State of Punjab** CRM-M-39657-2020, whereby the petitioner from whom no recovery had been effected, was enlarged on bail,

observing that without the transcript of the conversations exchanged between the co-accused, mere call details would not be considered to be corroborative material in absence of substantive material found against the accused. Charges stood framed on 25.04.2023 but out of 20 prosecution witnesses, only 1 has been examined so far. He also relies on the order passed by Co-ordinate Bench of this Court in **Sandeep Kumar @ Gogi vs. State of Haryana** in CRM-M-24505-2022 decided on 07.12.2022, wherein also the petitioner, who was implicated on the basis of disclosure statement but no recovery had been effected from him and he was involved in one more case under the NDPS Act, was granted bail.

3. The custody certificate dated 14.08.2023, filed by learned State counsel is taken on record, as per which, the petitioner is behind bars for 9 months and 1 day.

4. Learned State counsel opposes the bail on the ground that from co-accused of the petitioner 304 kgs of ganja was recovered. He is however unable to controvert the submissions made regarding the stage of the trial, petitioner not being involved in any other case under NDPS Act and no recovery having been effected from him.

5. Heard.

6. Considering the facts and circumstances of the case, in particular that the petitioner is in custody for the last 9 months and 1 day; not involved in any other case under NDPS Act; no recovery has been effected from him; his name surfaced based on disclosure statement of co-accused; charges were framed on 25.04.2023 and out of 20 witnesses, only one has yet been examined; the trial is likely to take a considerable time, thus his further incarceration would not serve any useful purpose, the present petition for grant of regular bail deserves to be

allowed.

7. As a result, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned and subject to his not being required in any other case. The petitioner shall abide by the following conditions:-

- (i) The petitioner will not tamper with the evidence during the trial.
- (ii) The petitioner will not pressurize/ intimidate the prosecution witnesses.
- (iii) The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
- (iv) The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.
- (v) The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.
- (vi) The petitioner shall not in any manner misuse his liberty.
- (vii) The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.
- (viii) The petitioner shall not leave the country without prior permission of the trial Court.
- (ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioner.

8. It is made abundantly clear that in case there is any breach of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

9. In view of the above, it is clarified that the observations made herein

are limited for the purpose of present proceedings and would not be construed as an opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

16.08.2023
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(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No