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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-13028-2023 (O&M)
Date of Decision: 21.03.2023

Amarjit Singh

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Prateek Pandit, Advocate, for the petitioner.

Ms. Akshita Chauhan, DAG, Punjab.

JASGURPREET SINGH PURI, J. (Oral)

The present is a fourth petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in FIR No. 284 dated 08.10.2020, under Sections 15(c), 25, 29 of NDPS Act (Sections 25, 29 of NDPS Act added later on) registered at Police Station Shahkot, District Jalandhar (Rural).

Learned counsel for the petitioner has submitted that the petitioner is in custody from 08.10.2020 which is about 2 years and 5 months and it is a case where the petitioner was falsely implicated which can be substantiated from the fact that the charges in the present case were framed on 25.02.2021 and the matter was thereafter adjourned for about 29 times and only one Sub Inspector Surender Kumar has been examined in chief on 04.10.2021 but till date he has not been cross examined and rather a number of times the trial

Court had to summon the prosecution witnesses and evenailable warrants were also issued from time to time. He submitted that the other co-accused namely Sukhwant Singh who is at parity with the present petitioner also filed a bail petition before this Court which was allowed on 24.02.2023 vide Annexure P-2 by passing a detailed order in which all the circumstances have been discussed as to how the conduct of the prosecution witnesses in abstaining themselves from the trial and this Court had allowed the bail petition based upon the judgment of the Hon'ble Supreme Court in the case of *Satender Kumar Antil Versus Central Bureau of Investigation and another [2022 (10) SCC 51]*. He submitted that the present petitioner is at parity with the aforesaid co-accused and also the petitioner has got clean antecedents and is not involved in any other case. He submitted that in view of the reasoning which have been given in the aforesaid bail petition order of the co-accused Sukhwant Singh and even in the present case as well, the rigor of Section 37 of the NDPS Act will not apply.

On the other hand, Ms. Akshita Chauhan, learned DAG, Punjab has submitted that it is correct that the petitioner is in custody from 08.10.2020 which is about 2 years and 5 months and the other co-accused namely Sukhwant Singh who has been granted bail by this Court by passing a detailed order vide Annexure P-2 is at parity with the present petitioner. She also submitted that it is correct that the petitioner is not involved in any other case.

I have heard the learned counsel for the parties.

The petitioner is in custody from 08.10.2020 which is about 2 years and 5 months. The petitioner is exactly at parity with the aforesaid co-accused namely Sukhwant Singh who has been granted bail by this Court after making a departure from the bar contained under Section 37 of the NDPS Act

based upon the conduct of the prosecution witnesses whereby for about 29 times the matter was adjourned by the trial Court but no prosecution witness has been examined except one SI who has been examined in chief at the initial stages.

This Court is of the view that in view of the aforesaid facts and circumstances, the present petitioner also deserves the concession of regular bail especially in the light of the fact that the similarly situated co-accused has been granted bail by this Court vide Annexure P-2 and also in the light of Article 21 of the Constitution of India.

Consequently, the present petition is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

21.03.2023

rakesh

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking	:	Yes/No
Whether reportable	:	Yes/No