

CRM-M-14600-2023

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-14600-2023
Date of Decision: 21.04.2023

Gora @ Gurpreet Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. K.B. Raheja, Advocate,
for the petitioner.

Mr. Arun William, AAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

The present is a second petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing FIR No.269 dated 06.09.2021, under Section 21, 29, 61, 85 of the N.D.P.S. Act, 1985, registered at Police Station City Ferozepur, District Ferozepur.

2. It has been submitted by learned counsel for the petitioner that the petitioner is in custody since 06.09.2021, which is more than 1 year and 7 months and the charges in the present case were framed by the learned trial Court on 27.05.2022 which is almost 11 months ago but till date no prosecution witness has been examined. He further submitted that allegedly the recovery from the petitioner was 40 grams of *Heroin* which does not fall in the category of commercial quantity under the NDPS Act but thereafter, there was a recovery of 1 kg. 360 grams of *Heroin* from a rented

accommodation owned by another co-accused, namely, Rajesh Kumar. He also submitted that in the present case, there is another co-accused, namely, Maura @ Moura from whom there was an alleged recovery of 50 grams of *Heroin* and he has been extended the benefit of regular bail by a Co-ordinate Bench of this Court vide Annexure P-4 in CRM-M-58699-2022 on 14.03.2023 and the present petitioner is not only at parity with the aforesaid co-accused but he is at better footing since the alleged recovery from the petitioner was 40 grams of *Heroin* whereas that of recovery from the aforesaid co-accused was 50 grams of *Heroin*. He further submitted that although the petitioner is involved in one more case but that was in fact the only reason as to why the petitioner has been falsely implicated in the present case. He also submitted that in view of the long custody of the petitioner and also the fact that the aforesaid co-accused, who is at parity with the petitioner has been granted regular bail by a Co-ordinate Bench of this Court, he may also be considered for the grant of regular bail.

3. On the other hand, Mr. Arun William, learned AAG, Punjab has stated that so far as the custody of the petitioner is concerned, the same is correct and it is also correct that vide Annexure P-4, the co-accused, namely, Maura @ Moura, from whom there was a recovery of 50 grams of *Heroin* has been granted regular bail by a Co-ordinate Bench of this Court. He has however opposed the grant of regular bail to the petitioner on the ground that the petitioner is involved in one more case.

4. I have heard the learned counsel for the parties.

5. The present is a case where the petitioner has faced incarceration for more than 1 year and 7 months and the charges were

framed on 27.05.2022, which is almost 11 months ago, but no prosecution witness has been examined till date. No justification has come forth during the course of arguments as to what was the reason for about 11 months not even a single prosecution witness has been examined with the result that the petitioner had to face incarceration for more than 1 year and 7 months. Be that as it may, the other co-accused, namely, Maura @ Moura, who is stated to be at parity with the present petitioner has been extended the benefit of regular bail by a Co-ordinate Bench of this Court vide Annexure P-4, and therefore, this Court is of the view that the petitioner also deserves the concession of regular bail.

6. Consequently, the present petition is allowed and the petitioner is ordered to be released on regular bail on furnishing bail bond/surety bond to the satisfaction of the trial Court/Duty Magistrate concerned, if not required in any other case.

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

21.04.2023

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

1. Whether speaking/reasoned:	Yes/No
2. Whether reportable:	Yes/No