

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

**CRM-M No.17532 of 2021 (O&M)
Date of Decision: 27.01.2023**

Rajesh

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- None for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana for the respondent.

MAHABIR SINGH SINDHU, J.

Third petition has been filed under Section 439 of the Code of Criminal Procedure for grant of bail pending trial to the petitioner in FIR No.328 dated 20.09.2018, under Section 420 of the Indian Penal Code, 1860 and Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (Sections 27-A & 29 of the NDPS Act added later on), registered at Police Station Sadar Jind, District Jind.

2. Allegations are that on 19.09.2018, S.I. Ravinder Kumar of CIA, along with other police officials, was present at Patiala Chowk, Jind on patrolling duty. Then, he received secret information that Rajesh (petitioner) &

Kapil made a separate Cabin for supplying heavy quantity of *Ganja* in Truck bearing registration No.HR-39-B-6089. The police party noticed a Truck on which No.39-B-60 was written; whereas remaining numbers on both the number plates (front & backside) of said Truck were erased by rubbing. After completing formalities, police party apprehended both the aforesaid accused and 20 bags (total 456 Kgs. 870 Grams.) of *Ganja* were recovered from the Cabin of Truck. During interrogation, above accused disclosed the name of Anil, who is stated to be owner of the aforesaid Truck.

3. This Court, on 17.08.2021, granted interim bail to the petitioner in the following manner:-

“Learned Counsel submits that petitioner is in custody since 21.09.2018; there is no progress in the trial as not even a single prosecution witness has been examined.

Learned State Counsel wishes to verify the above factual position.

Posted on 03.11.2021.

In view of the long custody, petitioner be released on interim bail in the present case till the next date of hearing on his furnishing adequate bail and surety bonds subject to the satisfaction of learned trial Court/CJM/Duty Magistrate concerned.”

4. Learned State Counsel on instructions from the quarter concerned has apprised the Court that in compliance of aforesaid order, petitioner is regularly appearing before the Court below; but there is no progress of the trial. Also contends that co-accused Kapil, with similar allegations, has already been granted the concession of regular bail, vide order dated 12.05.2022 in CRM-M No.36930 of 2021.

5. In pursuance of order dated 06.12.2022, progress report has been received from learned trial Court vide communication dated 17.12.2022.

Relevant part of the same is extracted as under:-

“ it is submitted that initially charge was framed against the accused Rajesh s/o Ramesh, Kapil, Anil Kumar, Rajesh s/o Chatter Singh and Murlidhar @ Monu on 17.02.2021. Thereafter, case was fixed for evidence of prosecution. However, thereafter, one more accused Partap was arrested and his supplementary challan was produced in the court on 18.08.2021. Thereafter, again the consolidated charge was framed on 04.04.2022. Thereafter, the case was fixed for evidence of prosecution for 12.07.2022. On that date no PW was present as summons of PWs not received back. Thereafter, case was adjourned to 29.10.2022 for evidence of prosecution. For that date the summons of five witnesses were issued received back not properly served. Thereafter, the case was adjourned for 03.02.2023 for evidence of prosecution. The summons of five witnesses have been issued for that date.”

6. Perusal of the aforesaid report clearly reveals that there is no progress of trial; as despite sufficient opportunities, no prosecution witness came forward to depose in the matter.

7. Keeping in view the facts that petitioner is fully cooperating before the Court below and there is no allegation that in case he is granted bail pending trial, he will misuse the concession in any manner; thus, in such a scenario, sending the petitioner in custody at this stage would not serve any purpose.

8. Consequently, the present petition is allowed. Interim bail granted to the petitioner, vide order dated 17.08.2021, is made absolute. He shall be

admitted to bail on his furnishing bail/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

9. Petitioner shall fully co-operate with the learned trial Court without seeking any unnecessary adjournments.

10. The above observations may not be construed as an expression of opinion on the merits of the case.

11. It is clarified that in case there is any misuse of concession of bail on the part of the petitioner, State of Haryana would be at liberty to move an appropriate application for recalling of this order.

12. Disposed off accordingly.

January 27th, 2023
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

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