

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
224

CRM-M-16093-2023

Date of Decision: 12.04.2023

Gurjinder Singh

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. A.S. Bhatti, Advocate for the petitioner.

Mr. Jaspal Singh Guru, AAG, Punjab.

ASHOK KUMAR VERMA, J. (ORAL)

This is a repeat (second) bail application filed by the petitioner before this Court under Section 439 Cr.P.C. for grant of regular bail in case FIR No. 260 dated 10.12.2019 registered under Sections 399, 402, 412 and 120-B IPC; Sections 28 and 28 of the Arms Act and Sections 22 and 27 of the NDPS Act, 1985, at Police Station Tanda, District Hoshiarpur.

As per the case of the prosecution, on 10.12.2019, police party headed by SI Jasbir Singh received secret information that accused Harpreet Singh @ Raja, Jagtar Singh @ Jagga, Karanjit Singh @ Monu, Gurjinder Singh @ Kaka (petitioner herein) and Sarbjit Singh @ Sabi armed with deadly weapons made planning to commit dacoity. FIR was got registered and raid was conducted at the disclosed place where Harpreet Singh and Jagtar Singh were found having rifles while Karanjit

Gurjinder Singh and Sarabjit Singh were sitting with them and were taking intoxicant powder. Two rifles along with live cartridges and three kirpans were recovered from them. On personal search, 225 grams intoxicant powder from accused Karanjit, 120 grams intoxicant powder from accused Gurjinder Singh (petitioner), 60 grams intoxicant powder from accused Sarbjit Singh, 260 grams intoxicant powder from accused Jagtar Singh and 265 grams intoxicant powder from accused Harpreet Singh @ Raju were recovered.

Learned counsel for the petitioner *inter alia* contends that petitioner has falsely been implicated in the present case. He had no concern with main accused, namely, Harpreet Singh and Jagtar Singh. 120 grams of intoxicant powder was recovered from the petitioner which is marginally above the commercial quantity. The only role attributed to the petitioner is that he was sitting with other co-accused and planning to commit dacoity. No weapon was recovered from him. Petitioner is in custody since 17.09.2021. The trial is likely to take long time as the next date before the trial Court is 25.07.2023. No useful purpose would be served by further detention of the petitioner in custody. Thus, it is prayed that the petitioner may be released on regular bail, keeping in view the long custody period of the petitioner. In support of his contentions, learned counsel for the petitioner has relied upon a judgment of Hon'ble the Apex Court in ***Mohd. Muslim @ Hussain vs. State (NCT of Delhi)***, **203 LiveLaw (SC) 260**.

It is not disputed that first petition filed by the petitioner

bearing CRM-M-1025-2022 for grant of regular bail under Section 439 Cr.P.C. was dismissed by this Court by passing a detailed order dated 28.10.2022 (Annexure P-3).

Learned counsel for the petitioner has failed to show as to whether there is any substantial change in the circumstances after rejection of the earlier bail application of the petitioner by this Court on 28.10.2022. Merely because the petitioner is behind the bars since 17.09.2021 and trial is not likely to conclude in near future, are no grounds for grant of regular bail to the petitioner. Hon'ble Supreme Court in ***Kalyan Chandra Sarkar vs. Rajesh Ranjan @ Pappu Yadav (SC)***, ***Law Finder Doc Id # 69139***, has considered this issue and observed as under:-

“13.....In the impugned order it is noticed that the High Court has given the period of incarceration already undergone by the accused and the unlikelihood of trial concluding in the near future as grounds sufficient to enlarge the accused on bail, in spite of the fact that the accused stands charged of offences punishable with life imprisonment or even death penalty. In such cases, in our opinion, the mere fact that the accused has undergone certain period of incarceration by itself would not entitle the accused to being enlarged on bail, nor the fact that the trial is not likely to be concluded in the near future either by itself or coupled with the period of incarceration would be sufficient for enlarging the appellant on bail when the gravity of the offence alleged is severe and there are allegations of tampering with the witnesses by the accused during the period he was on bail.”

The facts and circumstances of the judgments relied upon by learned counsel for the petitioner are quite distinguishable from the facts of the present case because every case has its own peculiar facts and circumstances. Therefore, no benefit of the same, whatsoever, can be

given to the petitioner.

Keeping in view the overall facts and circumstances of the present case and seriousness of the allegations levelled against the petitioner, I do not deem it a fit case for grant of concession of regular bail to the petitioner. Hence, this second bail application cannot be entertained by this Court and the same is hereby dismissed.

12.04.2023
rishu

(ASHOK KUMAR VERMA)
JUDGE

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