

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

210

CRM-M-17311-2022 (O&M)

Date of decision: 21.07.2023

Gurmukh Singh @ Happy

..Petitioner

Versus

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Hitesh Chopra, Advocate for the petitioner.

Mr. Manipal Singh Atwal, DAG, Punjab.

AMAN CHAUDHARY, J.

1. The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.01 dated 21.01.2022, registered under Sections 21, 25, 29 of NDPS Act (Section 25 of Arms Act added later on), at Police Station State Special Operation Cell, Amritsar, District Intelligence Wing (CID).

2. Learned counsel contends that the petitioner is in custody for the last 1 year, 5 months, 26 days. He has been falsely implicated in the present case. Recovery effected from him was of 100 gm heroin allegedly on the basis of his first disclosure statement and after three days on his second disclosure statement, one pistol and 7 cartridges were allegedly recovered. However, there is no allegation that the said weapon was used. He is not involved in any other case under the NDPS Act. Charges stand framed on 07.10.2022 but out of 25 prosecution witnesses, only 2 have been examined.

3. Learned State counsel opposes the bail on the ground that the contraband in question was recovered from the petitioner along with the pistol and 7 live cartridges. He is however unable to controvert the submissions made regarding the custody, stage of the trial and the petitioner not being involved in any other case under the NDPS Act.

4. Heard.

5. Considering the facts and circumstances of the case, in particular that the petitioner is in custody for almost 1 year, 5 months and 26 days; not involved in any other case under NDPS Act; non-commercial quantity of contraband has been recovered from him, therefore, rigors of Section 37 of NDPS Act are not attracted in the present case; though charges were framed on 07.10.2022 but only 2 out of 25 witnesses have 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.

6. 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.

7. 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.

8. 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.

21.07.2023
ashok

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No