

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

224

CRM-M-18525-2023 (O&M)

Date of decision: 10.08.2023

Gursharan Singh @ Jodha

..Petitioner

Versus

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Parminder S. Sekhon, Advocate for the petitioner.

Mr. HS Sullar, Sr. DAG, Punjab.

AMAN CHAUDHARY, J.

1. Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in FIR No.143 dated 07.07.2022, registered under Section 15 of NDPS Act, at Police Station Samana, District Patiala.
2. Learned counsel contends that the petitioner is in custody for the last about 9½ months. His name surfaced based on the disclosure statement of co-accused Nishan Singh from whom 150 kgs. poppy husk has been recovered. No recovery has been effected from the petitioner. He has been falsely implicated. There is no evidence to connect him to the said co-accused, but for the aforesaid disclosure statement. He is not involved in any other case under the NDPS Act. Charges stand framed on 03.05.2023 and out of 15 witnesses, none has been examined. He relies on the order passed by Co-ordinate Bench of this Court in **Sandeep Kumar @ Gogi vs. State of Haryana** in CRM-M-24505-2022 decided on 07.12.2022, wherein also the petitioner was implicated on the basis of

disclosure statement, no recovery had been effected from him, he was involved in one more case under the NDPS Act.

3. Learned State counsel opposes the bail on the ground that commercial quantity of contraband was recovered from co-accused of the petitioner and he was specifically named in the disclosure statement. He is however unable to controvert the submissions made regarding the custody, stage of the case, petitioner being not involved in any other case under the NDPS Act and no recovery has been effected from him.

4. Heard.

5. Considering the facts and circumstances of the case, in particular that the petitioner is in custody for the last 9 months; not involved in any other case under NDPS Act; name surfaced, based on disclosure statement of co-accused; no recovery has been effected from him; though charges were framed on 03.05.2023 but out of 15 witnesses none has 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.

(AMAN CHAUDHARY)
JUDGE

10.08.2023
ashok

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No