

220 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-23833-2023
DECIDED ON: 16th MAY, 2023

HARSEWAK SINGH @ SEWAK

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Manjot Kaur, Advocate
for the petitioner.

Mr. Mohit Chaudhary, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court under Section 439 Cr.P.C., has been invoked for the grant of regular bail to the petitioner in FIR No. 182, dated 10.10.2021, under Sections 21, 25 and 29 of NDPS Act 1985, registered at Police Station STF, District Mohali.

2. The primary submission of learned counsel for the petitioner before this Court is on the medical ground. She prays for intervention of this Court as the petitioner is the only bread earner of the family and his father is suffering from chronic heart disease, who has underwent surgery on 30.07.2022. She has also asserted that there is no other male member in the family to look after the father of the petitioner who is bed ridden and is behind the bars since 10.10.2021. It is also her assertion that the petitioner is not involved in any other case of any nature whatsoever, who has been falsely implicated in the present case as well and the alleged recovery of contraband was from the dashboard of the car wherein one more person

namely Gurpreet Singh was also travelling, who has been granted the concession of interim bail by this Court vide order dated 08.06.2023.

3. On the other hand learned State counsel has produced the custody certificate of the petitioner. According to which the petitioner has suffered incarceration for a period of 1 year 7 months and 4 day as of now. He opposes the prayer made in the present petition stating that the petitioner is directly involved in the commission of offence and huge quantity of contraband has been recovered from the dashboard of the car, which belongs to the petitioner.

4. On a query put by this Court, learned State counsel has candidly submits that only two witnesses have been examined so far out of total 20 witnesses. There is no doubt in the mind of this Court that the trial is moving a snail's pace and will certainly take long time time to conclude and the petitioner cannot be allowed to stay behind the bars on account of pendency of trial, as has been held by the Apex Court in the case of **“Ashish Mishra @ Monu vs. State of U.P.; passed in SLP (Criminal) No. 7857 of 2022, decided on 25.01.2023.**

5. From the perusal of custody certificate, it is evident that the petitioner is not involved in any other case of any nature whatsoever, which shows that he is not an habitual offender and on that account also the story of prosecution becomes doubtful, which may lead to acquittal also as the recovery of the contraband was effected on a secret information and another co-accused was travelling in the car. This Court cannot loose sight of the fact that though the father of the petitioner is bed ridden, as is evident from Annexure P-4 which shows that he has suffered a mild paralytic heart

attach and has underwent heart surgery on 30.07.2022.

6. In view of afore-said facts and circumstances, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

7. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

16th MAY, 2023
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(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>