

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

CRM-M-23914-2023 (O&M)

Date of Decision: 06.07.2023

Hardeep Singh @ Golu

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Ms. Gagan Mohini, Advocate, for the petitioner.

Mr. Rajiv Verma, DAG, Punjab.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No. 22 dated 23.02.2021, under Section 22 of NDPS Act, registered at Police Station Sadar Khanna, District Ludhiana.

2. Learned counsel for the petitioner has submitted that the petitioner is in custody for 2 years and 4 months and as per the allegations, the police party had some information and they had stopped the motorcycle on which the petitioner was a pillion rider and other co-accused namely Kewal Khan was driving the motorcycle and on seeing the police party, they had thrown away the polythene bag in the fields and in this way, no recovery was effected from either of the accused. Learned counsel further submitted that in the present case the other co-accused

namely Kewal Khan who was driving the motorcycle has been extended the benefit of regular bail by this Court in CRM-M-44825-2022 vide order dated 05.05.2023 and so far as the present petitioner is concerned, he is also at parity with the aforesaid co-accused. She while referring to the aforesaid order passed by this Court, submitted that bail was granted to the aforesaid co-accused primarily on the ground that after the framing of the charges on 22.10.2021 not even a single witness has been examined till date. More than 16 times the matter was adjourned out of which 4 times bailable warrants were issued against the prosecution witnesses but no prosecution witness has been examined and even till date no prosecution witness has been examined. She further submitted that this Court had considered the judgment of Hon'ble Supreme Court in *Satender Kumar Antil Versus Central Bureau of Investigation and another [2022 (10) SCC 51]* and also a latest judgment of the Hon'ble Supreme Court in *Mohd. Muslim @ Hussain Versus State (NCT of Delhi) [2023 AIR (SC) 1648]* and while referring to the aforesaid judgments it was so held by this Court that the bar contained under Section 37 of the NDPS Act will not apply and the aforesaid co-accused was granted bail by passing a detailed order in the light of Article 21 of the Constitution of India. She submitted that the petitioner is exactly at parity with the aforesaid co-accused and therefore, the petitioner may be considered for the grant of regular bail.

3. On the other hand, Mr. Rajiv Verma, learned DAG, Punjab has submitted that so far as the custody period of the petitioner is concerned, the same is correct and till date no prosecution witness has been examined despite the fact that the charges were framed way back on 22.10.2021. So far as the parity of the petitioner with the other co-accused is concerned, the same has

not been disputed by learned State counsel.

4. I have heard the learned counsel for the parties.
5. The petitioner has already faced incarceration for 2 years and 4 months and till date no prosecution witness has been examined. This Court while granting bail to the other co-accused, namely, Kewal Khan has dealt in detail the position with regard to delayed trial of the present case while referring to the judgments of the Hon'ble Supreme Court as aforesaid and granted bail to the other co-accused in the light of Article 21 of the Constitution of India. After hearing the learned counsel for the parties, this Court is of the view that the petitioner is at parity with the aforesaid co-accused and therefore, he is entitled for the grant of regular bail.
6. Consequently, the present petition is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.
7. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

06.07.2023

rakesh

Whether speaking

Whether reportable

(JASGURPREET SINGH PURI)

JUDGE

:

:

Yes/No

Yes/No