

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

220(3)

CRM-M No.25301 of 2023 (O&M)

Date of Decision: 21.08.2023

Rajender Singh Borana alias Raju

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Baltej Singh Sidhu, Sr. Advocate with
Mr. Inderpal Singh, Advocate,
for the petitioner.

Mr. Amish Sharma, AAG, Punjab for the respondent.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of bail pending trial to the petitioner in FIR No.205 dated 25.08.2022, under Sections 18(b) of NDPS Act, 1985 and Section 25 of Arms Act, (Section 29 of NDPS Act, added later on vide Rapat No. 47 dated 08.11.2022), registered at Police Station Lambi, District Sri Muktsar Sahib.

2. Allegations are that co-accused, namely, Ramandeep Singh was found in possession of 5.5 Kg. (opium), one country made pistol (.32 bore) with 6 loaded live cartridges and 50 live cartridges, drug money of Rs. 52,500/-. Thereafter, on the interrogation of above co-accused, petitioner was nominated as an accused in the present case.

3. This Court, while issuing notice of motion on 28.07.2023, granted interim bail to petitioner in the following manner:-

“Learned Senior Counsel contends that petitioner is in custody since 30.12.2022; challan has already been presented, but charges are yet to be framed; thus, trial is likely to take sufficient long time. Also contends that alleged contraband was recovered from one Ramandeep Singh and petitioner has been nominated on the basis of disclosure made by said Ramandeep Singh; but there is no recovery from the petitioner; nor any other criminal case is pending against him.

Notice of motion.

On asking of the Court, Mr. Joginder Pal Ratra, DAG, Punjab accepts notice on behalf of the respondent and submits that an amount of Rs.3,000/- was received by the petitioner through Paytm from aforesaid Ramandeep Singh.

Learned State Counsel seeks time to file written response in the matter.

Posted for 11.08.2023. In the meanwhile, petitioner be released on interim bail in the present case till the next date of hearing on his furnishing adequate bail and surety bonds subject to the satisfaction of learned trial Court/CJM/Duty Magistrate concerned.”

4. Learned Senior counsel for the petitioner submits that in compliance of the aforesaid order, petitioner is regularly appearing before the Court below. Also raised the contention that apart from disclosure made by co-accused, there is no other material regarding the complicity of petitioner.
5. On the other hand, learned State Counsel opposed the prayer of petitioner, but acknowledged that there is no allegation that petitioner misused the concession of interim bail; or that he is likely to hamper the trial in any manner in case granted bail pending trial.
6. Heard both sides and perused the paper-book.

7. It is an admitted position that petitioner was not named in the FIR; rather nominated on the basis of disclosure made by the co-accused Ramandeep Singh. On repeated asking of the Court, learned State counsel is not able to show any material regarding the complicity of petitioner for alleged contraband.

8. Thus, *prima-facie*, there is no reason to say that he is likely to prove guilty; nor could be any apprehension noticed that petitioner shall commit an offence while on bail.

9. In view of the above, there is no option except to allow the petition.

10. Ordered accordingly.

11. Interim bail granted to the petitioner, vide order dated 28.07.2023, is made absolute. He shall be admitted to bail on his furnishing bail/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

12. Petitioner shall fully co-operate with the learned trial Court without seeking any unnecessary adjournments.

13. The above observations may not be construed as an expression of opinion on the merits of the case.

14. It is clarified that in case there is any misuse of concession on the part of the petitioner, State of Punjab would be at liberty to move an appropriate application for recalling of this order.

15. Disposed off accordingly.

21.08.2023

SN

(MAHABIR SINGH SINDHU)
JUDGE

1. Whether speaking/reasoned: Yes/No

2. Whether reportable: Yes/No