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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M No.26480 of 2023 (O&M)****Date of Decision:31.08.2023**

Harpreet Singh @ Happy

..... **Petitioner**V/s.

State of Punjab

.....**Respondent****CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI**

Present: Mr. Vipin Mahajan, Advocate
for the petitioner.

Mr. Naveen Kumar Sheoran, DAG, Haryana.

Mr. N. K. Vadhera, Advocate for the complainant.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure, for grant of regular bail to the petitioner in FIR No.89 dated 18.07.2022, under Sections 307, 326, 324, 323, 201, 148, 149, IPC (offence under Sections 307, 326, 201 of IPC, added later on) registered at Police Station Sadar Gurdaspur, District Gurdaspur.

2. It has been submitted by learned counsel for the petitioner that the petitioner is in custody from 12.02.2023 and the investigation of the case has been completed and thereafter the challan has been presented. He further submitted that it is a case where the allegations against the petitioner who had come riding on a motor cycle with Kuldeep Singh @ Kipa alongwith the other co-accused, namely, Gurbax Singh, Lovepreet Singh @ Lovely, Kirpal Singh @ Pala and Jatinder Singh @ Kaka who came separately in a car, caused injuries to the complainant. He submitted that some of the other aforesaid co-accused have already been granted anticipatory bail by this Court (Vide Annexure P-13 and P-14) and even the

petitioner was also granted interim anticipatory bail by the Coordinate Bench of this Court (Annexure P-10) but thereafter the said petition for grant of anticipatory bail was withdrawn with liberty to file fresh one in order to fortify the case of the petitioner by attaching some other documents and before the petitioner could file fresh petition with better particulars, the petitioner was arrested on 12.02.2023. He submitted that the petitioner could not file the anticipatory bail immediately after the withdrawal of the earlier bail petition because he was serving as a *Subedar* in Indian Army. He further submitted that the petitioner is having no criminal background and is not involved in any other case and it was only in this case that he was falsely implicated and all the other co-accused who are at similar footing with that of the petitioner, have been extended the benefit of anticipatory bail. He has also pointed out vide Annexures P7 and P8 that rather the complainant is a habitual offender and a huge recovery of heroin have been effected from him and the petitioner is only a victim of false implication. He further submitted that his entire career in the Indian Army has been destroyed at the instance of the complainant by implicating the petitioner in a false case.

3. On the other hand, learned Deputy Advocate General, Punjab has stated that it is correct that the petitioner is in custody from 12.02.2023 and all the other co-accused have been granted interim bail by this Court and their anticipatory bails have been confirmed by this Court. He submitted that however the petitioner cannot be stated to be at parity with the other co-accused because the petitioner had attributed 05 injuries on the complainant whereas the other co-accused are alleged to have inflicted only one or two injuries and therefore the petitioner cannot be considered at parity with the other co-accused and rather one of the injuries attributed to the petitioner is dangerous to life of complainant.

4. Mr. N.K. Vadhera, Advocate has appeared on behalf of the complainant and has also opposed the prayer for concession of regular bail to the petitioner on the ground that so far as the present petition is concerned, there are five injuries attributed to him out of which one injury is grievous to the life of the complainant and rest five injuries are attributed to the other co-accused.

5. I have heard the learned counsel for parties.

6. The petitioner is in custody from 12.02.2023 and as per learned counsel for the parties, the investigation of the case has already been completed and the challan has been presented. The petitioner is stated to be having no criminal background and is not involved in any other case. The petitioner is stated to be serving in Indian Army as *Subedar*. As per Annexure P-10, the petitioner was earlier granted interim anticipatory bail by this Court but since, some documents were lacking in the petition, he had withdrawn the petition with liberty to file a fresh petition with better particulars. Thereafter, before he could file a fresh petition, he was arrested and in this way, he is in custody from 12.02.2023. Although five injuries have been attributed to the petitioner but he is not a habitual offender and as pointed out by the learned counsel for the petitioner, rather the complainant is a habitual offender and a huge haul of heroin has been recovered from him. However, for the purpose of grant of regular bail, it has also to be seen as to what is the stage of the case. The investigation of the case has already been completed and no recovery has to be effected from the petitioner and also the petitioner is serving as *Subedar* in Indian Army. The other co-accused have already been granted bail and their anticipatory bail have been confirmed. Furthermore, it is not a case of the State counsel that in case the petitioner is released on bail, he

may abscond or flee from justice or may influence the witnesses or may tamper with the evidence.

7. Therefore, considering the aforesaid facts and circumstances of the case, this Court is of the view that the petitioner deserves the concession of regular bail.

8. 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, if not required in any other case.

9. 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.

10. Since the main petition has been allowed, all the pending application(s) also stand(s) disposed of.

31st August, 2023

Sonia Puri

**(JASGURPREET SINGH PURI)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No