

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

**CRM-M-31757 of 2022
Date of Decision:- 10.01.2023**

Joginder Singh @ Jagga

....Petitioner

Vs.

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Vipul Jindal, Advocate
for the petitioner.

Mr. M.S Nagra, AAG Punjab.

KARAMJIT SINGH, J.(Oral)

Prayer is for grant for regular bail to the petitioner in case having FIR No.103 dated 26.05.2021 registered under Sections 24/25 of Arms Act, Sections 27-A, 27-B NDPS Act and Sections 379, 411, 473, 201 IPC, Police Station Civil Lines Batala, District Gurdaspur.

The counsel for the petitioner has *inter alia* contended that the petitioner who is in custody for last more than 1 year and 7 months is targeted by ASI Vijay Singh and DSP Balbir Singh Sandhu and earlier he filed criminal writ petition No.5324 of 2020 as he was

apprehending that both the said officials will involve him in a case under NDPS Act. The counsel for the petitioner further submits that subsequently the petitioner was falsely implicated in two cases under NDPS Act in which he was later on granted bail by this Court vide orders, Annexure P-6, dated 10.03.2022 and Annexure P-7, dated 02.06.2022. The counsel for the petitioner has further submitted that thereafter, the petitioner was falsely implicated in the present case which was initially registered against Sarwan Singh and Sandeep Kumar from whom the police recovered certain fire arms and ammunition and both of them were granted bail by this Court vide orders, Annexure P-4, dated 11.03.2022 and Annexure P-5, dated 19.05.2022. The counsel for the petitioner further submitted that at the time of registration of present FIR, the petitioner was lodged in jail and he was arrested in this case on 28.05.2021 after getting his production warrant from the Court concerned. The counsel for the petitioner has further submitted that no contraband or fire arm or ammunition was recovered from the possession of the petitioner during the investigation of this case. As per prosecution version, the present petitioner suffered disclosure statement that he is involved in drug trafficking and that he has invested drug money by giving the same to different persons. The counsel for the petitioner further submitted that such a disclosure if any made by the petitioner is having no relevance. The counsel for the petitioner has further submitted that after completion of investigation, the police has

presented the challan, but it will take considerable time for the trial to conclude.

The present petition is contested by the State counsel who on instructions from ASI Kulwinder Singh submits that the petitioner is a habitual offender and is already facing trial in some other cases registered under NDPS Act. The State counsel further submits that the police has arrested co-accused Sarwan Singh and Sandeep Kumar and recovered fire arms and ammunition from them and on the disclosure of Sandeep Kumar the petitioner was nominated as an accused and was arrested after getting his production warrants and he disclosed about his involvement in drug trafficking and on the basis of said disclosure, amount (drug money) of more than Rs.50 lakhs was recovered from some other accused persons. However, the State counsel has not disputed the fact that in the present case neither any drug money nor any contraband was recovered from the possession of the petitioner. The State counsel has also admitted that in this case no fire arms or ammunition was recovered from the possession of the petitioner during the investigation of the case.

I have considered the submissions made by the counsel for the parties.

The petitioner was not named in the FIR which was registered against Sarwan Singh and Sandeep Kumar from whom the police recovered certain fire arms and ammunition and both of them

are granted regular bail vide orders Annexure P-4 and P-5, respectively. As per prosecution version the name of the petitioner surfaced only on the basis of disclosure made by aforesaid accused persons and then the petitioner was arrested in this case on 28.05.2021 after getting his production warrant as at that time the petitioner was lodged in a jail. As has been admitted by the State counsel no incriminating articles i.e. contraband, drug money, fire arms or ammunition were recovered from the possession of the petitioner during the investigation of this case. It is a matter of evidence as to whether the amount of more than Rs.50 lakhs stated to be recovered from other accused persons was given to them by the petitioner being drug money or proceeds of crime. After completion of investigation, the police has presented the challan and as per the custody certificate the petitioner is behind the bars in the present case for last more than 1 year and 7 months and it will take considerable time for the trial to conclude. Admittedly, co-accused Sarwan Singh and Sandeep Kumar from whom the police recovered fire arms and ammunition are already granted concession of regular bail by this Court, as is evident from Annexures P-4 and P-5.

In view of the above as no incriminating article was recovered from the conscious possession of the petitioner, no purpose is going to be served by keeping the petitioner in custody for any longer period. Thus, without commenting on the merits of the case the present petition is hereby accepted and the petitioner is ordered to

be released on bail subject to furnishing bail and surety bonds to the satisfaction of the Trial Court/CJM/Duty Magistrate concerned.

Disposed of accordingly, so also the pending miscellaneous application(s), if any.

10.01.2023
P. Chawla

(KARAMJIT SINGH)
JUDGE

Whether reasoned / speaking?
Whether reportable?

Yes / No
Yes / No