

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M- 31375-2020 (O&M)

Date of Decision: 27.03.2023

Ankush

... Petitioner

V/s.

State of Punjab

... Respondent

CORAM: **HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present : Mr. Prateek Pandit, Advocate
for the petitioner.

Mr. Gurdarshan Singh Sidhu, AAG, Punjab.

DEEPAK MANCHANDA, J.(Oral)

Petitioner has prayed for grant of regular bail under Section 439 Cr.P.C. in case FIR No. 153 dated 24.09.2018, under Section 21 of NDPS Act and Sections 25 and 27 of Arms Act registered at Police Station Bhargo Camp, District Jalandhar Commissionerate, who is alleged to have possessed contraband of 310 gram heroin along with 315 bore country made pistol with 02 cartridges.

Learned counsel for the petitioner contends that the petitioner is in custody since 26.09.2018 i.e. more than 04 years and 06 months. He submits that the petitioner has been falsely implicated in the present case. He further submits that the FSL report is duly received and the challan stands presented and the charges have been framed and out of total 14 prosecution witnesses 06 witnesses have already been examined. He further

submits that though there are five other FIRs registered against the petitioner but, except FIR No. 22 dated 08.02.2016, no other case is pending against him. He further argues that though the recovery is commercial but the petitioner is under custody since long time in the present case and the conclusion of trial will take sufficient time, therefore, prayer is made for the petitioner to be enlarged on bail.

Custody certificate has been filed by the respondent-State, which is taken on record. Even though learned counsel appearing on behalf of respondent-State, on instructions from ASI Raghbir Singh, opposes the grant of regular bail to the petitioner, while submitting that the offence alleged against the petitioner is serious in nature and 05 other cases are pending against the petitioner. However, he does not dispute the fact that challan stands presented and charges have been framed.

Confronted with the same, learned counsel for the petitioner submits that except FIR No. 22 dated 08.02.2016, the petitioner has been acquitted of the charges levelled against him in all other four cases. To support his contention, learned counsel for the petitioner refers to the judgment rendered by the Apex Court in ***Maulana Mohd. Amir Rashdi vs. State of Uttar Pradesh and Another in Criminal Appeal No. 159 of 2012.***

I have heard learned counsel for the parties.

Petitioner is in incarceration since 26.09.2018.

It is not a case made out by the respondent-State that in case concession of bail is granted to the petitioner, he would hamper the course of free and fair trial. Further, since the challan stands presented and the charges have been framed and there is no other case pending against the petitioner under the NDPS Act and the trial would take sufficient time, no

useful purpose would be served in keeping the petitioner behind bars.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned on the following conditions:-

- 1. *he shall appear before the Court on each and every date of hearing;*
- 2. *he shall not give any threat or intimidation to the prosecution witnesses;*
- 3. *he shall not indulge in any criminal activity.*

The Court accepting bonds would ensure that two local sureties who are financially sound having immovable properties within jurisdiction of the district furnish the bonds.

In addition to that the trial Court may impose any term and condition found suitable to ensure that the petitioner does not abscond and interfere in the trial.

In case the petitioner violates any terms and conditions on which the bail has been granted to him, the prosecution would be entitled to apply for cancellation of his bail.

The petition is allowed accordingly.

(DEEPAK MANCHANDA)

JUDGE

27.03.2023

seema

Whether speaking/reasoned	Yes
Whether Reportable	Yes /No