

207

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

**CRM-M-34244-2022
Date of Decision: 24.08.2023**

Vagela Nikulseh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Vikram Chaudhary, Senior Advocate assisted by
Mr. Raktim Gogoi, Advocate,
for the petitioner.

Mr. Ramdeep Partap Singh, Sr. DAG, Punjab.

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 case bearing FIR No.96, dated 20.05.2022, under Sections 21-C, 25, 27-A & 29 of the NDPS Act, 1985, registered at Police Station STF, District SAS Nagar Mohali.

2. Learned Senior Counsel for the petitioner has submitted that the petitioner is in custody for 1 year and 3 months and investigation of the case has already been completed and thereafter, charges have also been framed by the trial Court but till date only one witness has been examined. He further submitted that as per the FIR the allegations were that the police party had got information with regard to smuggling of the narcotics and on the basis of the information, they made a trap and apprehended three persons, namely, Parabdeep Singh, Amrik Singh and Sarabjit Singh. It was

thereafter from them there was a recovery of 3.5 kgs. of *Heroin* in total. He also submitted that the petitioner is not named in the FIR and his name was nominated on the basis of the disclosure statement made by one of the co-accused, namely, Sarabjit Singh to which he disclosed to the police in his disclosure statement that the drug money of Rs.76 lacs which was recovered, was to be transferred through a money exchange trader, who is the present petitioner and on the basis of the disclosure statement of the aforesaid co-accused before the police, the name of the present petitioner was nominated. Learned Senior Counsel further submitted that even as per the prosecution, there was no allegations against the petitioner with regard to his involvement in the smuggling of drug but the only alleged role of the petitioner was with regard to money transfer. He further submitted that the petitioner has already faced incarceration for about 1 year and 3 months and the petitioner has clean antecedents and he is not involved in any other case and since even as per the prosecution, he is not involved in the drug smuggling, therefore, he may be considered for the grant of regular bail, especially considering his long custody.

3. On the other hand, Mr. Ramdeep Partap Singh, learned Sr. Deputy Advocate General, Punjab, has submitted on instructions that it is correct that the petitioner is in custody for 1 year and 3 months and now one witness has been examined after the framing of the charges. So far as the role of the present petitioner is concerned, he referred to the reply filed by the State wherein it is stated that the petitioner is instrumental in money transfer but as per the prosecution or the FIR, there was no allegation pertaining to the drug smuggling by the petitioner. He further submitted on

instructions that the petitioner is not a habitual offender and is not involved in any other case.

4. I have heard the learned counsels for the parties.

5. It is a case where the petitioner is stated to be in custody for 1 year and 3 months and even as per the prosecution, the role of the petitioner was not pertaining to his involvement in a drug smuggling but it was only with regard to money transfer by way of a *Hawala* etc. The petitioner is stated to be not involved in any other case and has clean antecedents. As per the learned counsel for the parties, the investigation of the case has already been completed and now no recovery is to be effected from the petitioner. Even as per the allegations, the petitioner was stated to be not involved in the drug smuggling and the allegation was only pertaining to money transaction by way of an illegal method for sending the money abroad. It is yet to be established at the time of trial as to whether the money transacted, if any, was drug money or not. Therefore, the rigour of Section 37 of the NDPS Act will not be applicable to the present petitioner. Furthermore, it is neither the case of the State nor it has been argued by the learned State counsel that in case the petitioner is released on bail then he may abscond or flee from justice or may influence the witness or may tamper with the evidence.

6. Therefore, in view of the aforesaid facts and circumstances of the present case and considering the custody of the petitioner, this Court deems it fit and proper to grant regular bail to the petitioner. Consequently, the present petition is allowed and the petitioner is ordered to be released on regular bail on furnishing bail bond/surety bond to the satisfaction of the

7. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

JUDGE

1. Whether speaking/reasoned: Yes/No
2. Whether reportable: Yes/No