

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

223

CRM-M-32547-2023

Date of Decision :-18.07.2023

Arik Masih @ Kanni

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Vinod Kumar Kaushal, Advocate for the petitioner.

Mr. Anmol Singh Sandhu, AAG, Punjab.

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Harsimran Singh Sethi, J. (Oral)

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in respect of FIR No.40 dated 25.06.2018 registered under Sections 21, 22, 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Division D, Police Commissionerate Amritsar, District Amritsar.

Custody certificate filed by the learned State counsel in the Court today is taken on record.

Learned counsel for the petitioner submits that the petitioner has been involved in the present FIR on the basis of the disclosure statement of the other co-accused and no recovery has been effected from him coupled with the fact that no material except the said disclosure statement of the co-accused has come on record so far to connect the petitioner with the allegations alleged in the FIR. Learned counsel for the petitioner further submits that the petitioner is behind the bars for the last four years and there is no question of any involvement of the petitioner with regard to the

allegations alleged in the present FIR. Hence, as the petitioner has undergone 04 years of custody so far and that too with regard to the allegations which has come in the disclosure statement of the co-accused especially, in the absence of recovery of any contraband effected from the petitioner, the petitioner may kindly be granted concession of regular bail.

Learned State counsel does not dispute the fact that the petitioner has been roped in the present case on the basis of the disclosure statement of the co-accused and no recovery has been done from him but submits that other cases are also pending against the petitioner.

Learned counsel for the petitioner in rebuttal to the submission of the learned State counsel submits that in two other cases, the petitioner has been convicted and has already undergone the sentence awarded and except the present case, no other case is pending against him.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Keeping in view the facts and circumstances of the present case especially, when the petitioner has already undergone more than 04 years of custody and he was involved in the present FIR only on the basis of the disclosure statement of the co-accused and it is conceded fact that no contraband has been recovered from him coupled with the fact that no other material except the disclosure statement of the co-accused has been brought to the notice of this Court so as to connect the petitioner with the allegation alleged in the FIR, the petitioner has made out a case for the grant of regular bail, especially, when learned counsel for the petitioner has undertaken before this Court that the petitioner will not obstruct the trial or influence the witnesses, whose statements are yet to be recorded, in any manner and in

case of default of the above undertaking, the State will be at liberty to approach this Court for passing an appropriate orders.

Without commenting upon the merits of the case, it is directed that the petitioner be released on regular bail, subject to the satisfaction of trial Court/Duty Magistrate concerned.

However, it is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case.

July 18, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No