

2023:PHHC:102682

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

106+280

CRM M-37579 of 2022 (O&M)
Date of Decision: 08.08.2023

Manjit Singh

...Petitioner

Vs.

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. P.S. Sekhon, Advocate
for the petitioner.

Mr. Mohit Chaudhary, AAG, Punjab.

N.S.SHEKHAWAT, J. (Oral)

CRM 31988 of 2023

Allowed, as prayed, subject to all just exceptions.

Annexures A/1 and A/2 are taken on record. Office to tag the same at an appropriate place.

CRM M-37579 of 2022

1. The petitioner has moved the present petition under Section 439 Cr.P.C. with a prayer to grant the concession of regular bail to him in case FIR No. 04 dated 05.01.2019 under Section 22 (Act No. 61) of NDPS Act registered at Police Station Dirba, District Sangrur (Annexure P-1).

2. As per the case of the prosecution, at about 3.20 p.m. on 05.01.2019, a police party headed by Baljit Singh Inspector was present at Bus Stand Kakuwala for patrolling and one Optra car bearing registration No. PB-10CJ-7035 of white colour came from Patran side and on seeing the police party, the driver of the car stopped the car on one side and after opening its door, ran towards the left side of the fields. The police party recognized the person, who had run away as Manjit Singh son of Surjeet Singh caste Baazigar near Fish Farm Chunagra, Patran, as he was already known to the police party and he was successful in running away. On checking the car, 600 intoxicants tablets labelled as Clovidol-100 SR Tramadol containing 247.200 grams Tramadol Hydrochloride salt were recovered.

3. Learned counsel for the petitioner contends that the story projected by the prosecution is highly improbable and the petitioner has been falsely involved in the present case. Even as per the case of the prosecution, 600 intoxicating tablets had been recovered from the car kept in a transparent polythene bag and the petitioner was not arrested at the spot. The petitioner was wrongly declared as proclaimed person on 10.09.2019 and was arrested in the present case on 21.12.2019. The petitioner was granted the interim bail during Covid-19 pandemic on 27.03.2000 and his interim bail was extended from time to time. On 15.11.2021, the trial Court had issued

non-bailable warrants against the petitioner and the petitioner himself surrendered before the trial Court on 04.07.2022 and since then, he is continuing in custody. Learned counsel further contends that the alleged recovered contraband from the present petitioner is 247.200 gms of Tramadol Hydrochloride, which is non-commercial in nature. Still further, the petitioner has been in custody for the last more than 01 year and 08 months and his further detention in jail would not serve any meaningful purpose.

3. On the other hand, learned State counsel has opposed the grant of bail to the petitioner on the ground that the petitioner is a habitual offender and was involved in five cases under NDPS Act, apart from several other cases under the Indian Penal Code. Learned State counsel further submits that in case the petitioner is ordered to be released on bail, he may further involve in some other criminal activity.

4. I have heard learned counsel for the parties and perused the record.

5. It is not in dispute that the petitioner was ordered to be served by way of non-bailable warrants on 15.11.2021, however, he himself surrendered before the learned Court on 04.07.2022 and continues to be in custody for the last more than 01 year and 08 months, as per the custody certificate furnished by learned State counsel. Apart from that, there are two more cases against the present

petitioner under NDPS Act, however, the petitioner is on bail in both the cases and in one case, he has been ordered to be acquitted. Even, in most of other cases under the provisions of Indian Penal Code, he is on bail or has undergone his sentence. Still further, no doubt, there are other cases against the present petitioner, but the said factor alone cannot be the sole ground to confine the petitioner in jail in perpetuity. The bail to a petitioner in a particular case cannot be denied solely on the ground that several other cases are pending against him, even though, the petitioner has been able to make out a case for grant of bail in the case in hand.

6. The Hon'ble Supreme Court in the matter of **Prabhakar Tewari Vs. State of U.P., and another 2020(1) R.C.R. (Criminal) 831** has held that the pendency of several criminal cases against the accused cannot be the basis to refuse the prayer of bail. Similar observations have been made by the Hon'ble Supreme Court in the matter of **Maulana Mohd. Amir Rashadi Vs. State of U.P., and another 2012(1) R.C.R. (Criminal) 586**. In view of the above, without commenting any further on the merits, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/CJM concerned subject to the following conditions:-

(i) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.

(ii) The petitioner shall remain present before the Court on the dates fixed for hearing of the case.

(iii) The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.

(iv) The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.

(v) The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.

(vi) In case, the petitioner involved in any other criminal activity, during the pendency of the trial, it shall be viewed seriously and the prosecution shall be at liberty to move an appropriate application for cancellation of bail granted to the present petitioner.

(vii) The concerned Court may insist two heavy local surties and may also impose any other condition, in accordance with law, while accepting the bails bonds and surety bonds of the petitioner.

(viii) The petitioner shall report every 1st and 3rd Monday in English calander month before the concerned SHO till

the conclusion of the trial and SHO shall mark his presence by making an entry in the Rojnamcha. In case, he does not report on every 1st and 3rd Monday before the concerned SHO, it shall be viewed seriously and the concession granted to him shall be liable to be cancelled and the State of Punjab shall be at liberty to move an appropriate application in this regard.

08.08.2023

(N.S.SHEKHAWAT)

amit rana

JUDGE

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