

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

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CRM-M-37899-2023 (O&M)

Date of decision: 10.08.2023

Pargat Singh alias Kaka

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Dr. Anmol Rattan Sidhu, Sr. Advocate with
Mr. Shiv Kumar Sharma, Advocate for the petitioner

Mr. H.S. Sullar, Sr. DAG Punjab

AMAN CHAUDHARY. J.

1. Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.178 dated 26.11.2022, registered under Sections 15(c) and 29 of NDPS Act, at Police Station Sangat, District Bathinda.

2. Learned Senior counsel contends that the petitioner is in custody for about 5 months, having been arrested on 30.03.2023. Co-accused Nirmal Singh, who was apprehended at the spot with the alleged contraband, had named co-accused Daljit Singh, on whose disclosure statement, the name of the petitioner surfaced and who has since been granted regular bail by this Court 13.07.2023, after being in custody for 6 months and 19 days on the ground that no recovery had been effected from him. Similarly, no recovery has been effected from the petitioner as well. There is also no evidence that has emerged to connect him to the said case, but for the aforesaid disclosure statement, which is

inadmissible in the eyes of law as per the judgment passed by Hon'ble The Supreme Court in the case of **Tofan Singh vs. State of Tamil Nadu**, 2021 (1) RCR (Crl.) 1. Though, the petitioner is involved in 4 more cases, however, he is on bail. In this regard, reliance is placed on the judgment of Hon'ble The Supreme Court in **Maulana Mohd. Amir Rashadi vs. State of U.P. and others**, 2012(2) SCC 382. Challan was presented on 05.05.2023, however, charges have not been framed. In all there are 23 prosecution witnesses. He relies on the order passed by Co-ordinate Bench of this Court in **Sandeep Kumar @ Gogi vs. State of Haryana** in CRM-M-24505-2022 decided on 07.12.2022, wherein also the petitioner was implicated on the basis of disclosure statement, no recovery had been effected from him, he was involved in one more case under the NDPS Act.

3. Learned State counsel opposes the bail on the ground that commercial quantity of contraband has been recovered from the co-accused of the petitioner namely Nirmal Singh, the petitioner has been involved based on the disclosure statement of co-accused Daljit Singh and 4 more cases are pending against the petitioner. He is, however unable to controvert the submissions with regard to stage of the case, co-accused having been granted bail and the petitioner being on bail in the other cases.

4. Heard.

5. Hon'ble The Supreme Court in the case of **Maulana Mohd. Amir Rashadi** (Supra) had held that, "As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as

possibility of fleeing away from the jurisdiction of the Court etc.” Reiterating in **Prabhakar Tewari vs. State of UP and another**, (2020) 11 SCC 648, it was observed that, “The offence alleged no doubt is grave and serious and there are several criminal cases pending against the accused. These factors by themselves cannot be the basis for refusal of prayer for bail.”

6. Considering the facts and circumstances of the case, in particular that the petitioner is in custody for the last about 5 months; co-accused having been granted bail, on whose disclosure statement, the petitioner was involved; no recovery has been effected from him; on bail in other cases; challan stands presented on 05.05.2023, however, charges are yet to be framed; in all there are 23 prosecution witnesses, the trial is likely to take a considerable time, thus his further incarceration would not serve any useful purpose, the present petition for grant of regular bail deserves to be allowed.

7. As a result, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned and subject to his not being required in any other case. The petitioner shall abide by the following conditions:-

- (i) The petitioner will not tamper with the evidence during the trial.
- (ii) The petitioner will not pressurize/ intimidate the prosecution witnesses.
- (iii) The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
- (iv) The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.
- (v) The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted

with the facts of the case so as to dissuade him/ her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.

- (vi) The petitioner shall not in any manner misuse his liberty.
- (vii) The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.
- (viii) The petitioner shall not leave the country without prior permission of the trial Court.
- (ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioner.

8. It is made abundantly clear that in case there is any breach of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

9. In view of the above, it is clarified that the observations made herein are limited for the purpose of present proceedings and would not be construed as an opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

(AMAN CHAUDHARY)
JUDGE

August 10, 2023
M.Kamra

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