

**102+206 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-40037-2023 (O&M)

Date of Decision: 21.09.2023

Malkiat Singh

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

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

Ms. Akshita Chauhan, Deputy Advocate General, Punjab.

Rajesh Bhardwaj, J. (ORAL)

CRM-38525-2023

Allowed as prayed for. Annexures P-5 to P-8 are taken on record.

Main case

Prayer in the present second petition is for the grant of regular bail to the petitioner in a case FIR No.167 dated 20.07.2022, registered under Sections 22/25/61/85 of NDPS Act and Section 29 of NDPS Act added lateron, at Police Station Sidhwan Bet, District Ludhiana.

Adumbrated facts of the case are that the Police received a secret information that Jarnail Singh @ Jelly is habitual of selling intoxicant tablets and he was coming on the motorcycle without number. If, the *naka* is laid, he can be arrested with the contraband. Finding the secret information reliable, the FIR was registered and *Naka* was laid. Thereafter, Jarnail Singh was arrested by the police party alongwith the contraband and recovery of 250 tablets containing Etizolam salt was effected from him. Two days thereafter, the disclosure statement of Jarnail Singh was recorded, wherein,

he disclosed about the petitioner for his involvement in the case. On the

basis of the same, the petitioner was named as co-accused in the FIR. The petitioner approached the Court of Additional Sessions Judge, for grant of anticipatory bail under Section 438(2) Cr.P.C. and the petitioner was granted interim bail vide order dated 06.09.2022, which was confirmed vide order dated 08.02.2023. However, the anticipatory bail granted to the petitioner was cancelled on 10.04.2023 and he was taken into custody on 10.04.2023 and since then, he is behind bars. He approached the Court of Special Court, Ludhiana for bail and the same was declined vide order dated 05.05.2023. Thereafter, the petitioner approached this Court by way of filing CRM-M-25856-2023, however, the same dismissed as not pressed vide order dated 02.06.2023. Hence, the petitioner has approached this Court again by way of filing the present second petition for grant of bail.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely and frivolously implicated in this case. He has submitted that the FIR in question was registered on the basis of secret information, which was specifically against co-accused Jarnail Singh and the petitioner was not named in the FIR. He submits that two days thereafter, the petitioner has been named in the present FIR only on the basis of disclosure statement of the co-accused, which is not even an admissible evidence. He submits that neither the petitioner was named in the FIR nor there was any recovery effected from him. He submits that as evident from the record, the petitioner was granted anticipatory bail by the trial Court and FSL report was also received at the time of granting anticipatory bail and thus, the anticipatory bail granted was illegally cancelled and the petitioner was wrongly arrested in this case. He submits that though the petitioner faced prosecution in two other cases, however, he

is on bail in those cases. He submits that false implication of the petitioner is writ large and thus, he deserves to be granted bail.

On the other hand, learned State counsel has submitted that though the petitioner has been named in the FIR on the basis of disclosure statement of the co-accused, however, recovery effected from the co-accused is commercial quantity. She submits that as per custody certificate, it is apparent that the petitioner is involved in two more cases, out of which one case is for the offence under Sections 18, 25 of NDPS Act. She submits that the investigation is complete and challan is presented in this case.

Heard.

Apparently, the FIR was registered on the basis of the secret information. Neither the petitioner is named in the FIR nor there is any recovery effected from him. However, two days after, disclosure statement has been made by co-accused Jarnail Singh and on the basis of same, the petitioner was arrested. It is also reflected from the record that the petitioner was granted anticipatory bail by the trial Court, but later on the same was cancelled and the petitioner was taken into custody. As per the custody certificate, the petitioner is facing prosecution in two more cases, however, he is on bail in those cases. This Court would refrain itself from commenting anything on merits of the case. However, considering the prayer for grant of bail to the petitioner, I am of the view that learned counsel for the petitioner has been able to make out a case for grant of regular bail to the petitioner. The trial would take sufficiently long time in its conclusion.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail to the satisfaction of the concerned trial

Court/Duty Magistrate.

Nothing said herein shall be treated as an expression of opinion
on the merits of the case.

21.09.2023
sharmila

Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE
:
:
Yes/No
Yes/No