

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

CRM-M-44249-2022

Date of Decision: 23.01.2023

GURMINDER SINGH ALIAS DEEP

... PETITIONER

VS.

STATE OF PUNJAB

.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. Ravi Malhotra, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, DAG, Punjab.

VIVEK PURI, J.(ORAL)

The petitioner is seeking regular bail in the case bearing FIR No.73 dated 10.07.2021 under Sections 21/22 and 29 of the NDPS Act registered at Police Station Dhakoli, District SAS Nagar.

Custody certificate has been placed on record.

Learned counsel for the petitioner contends that similarly placed co-accused, namely, Sunny Kumar and Raman Kumar have been granted regular bail in terms of the orders passed in CRM-M-18657-2022 and CRM-M-39721-2022, respectively. The case of the petitioner is at par with co-accused who have been granted regular bail. The petitioner is in custody for a period of 01 year, 06 months and 10 days and not involved in any other case. He further contends that so far only 02 witnesses out of 11 witnesses have been examined.

Learned State counsel has not disputed the fact that the case of the petitioner is at par with co-accused, who have been granted regular bail.

In CRM-M-39721-2022, Raman Kumar, co-accused, was granted bail in terms of the order dated 07.09.2022 by making following

observations:-

“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 FIR No.73 dated 10.7.2021 under Sections 21, 22 and 29 of NDPS Act, registered at Police Station Dhakoli, District SAS Nagar.

It has been submitted by the learned counsel for the petitioner that the petitioner is in custody from 10.7.2021 which is more than one year and the investigation has already been completed in the present case and thereafter the challan has been presented before the competent Court. He further submitted that two witnesses have already been examined in the present case and so far as the petitioner is concerned, he has clean antecedents and is not involved in any other case. He submitted that even as per the FIR, the petitioner alongwith two more co-accused were caught alongwith 15 injections of Buprenorphine of 2 ml each and 15 injections of Avil. He further submitted that so far as the 15 injections of Avil is concerned, the same are not covered within the purview of NDPS Act and so far as the alleged recovery of 15 injections of Buprenorphine from the petitioner is concerned, the same is slightly higher than the commercial quantity but the same is permissible under Rule 66 of the NDPS Rules. He also relied upon the judgment of this Court in **Sukhwinder Singh @ Vicky Vs. State of Punjab, 2021(1) R.C.R.(Criminal) 177**. He further submitted that the other co-accused, namely, Sunny Kumar has been granted bail vide CRM-M-18657-2022 and the petitioner is at parity with the aforesaid co-accused and rather he is on better footing since there was no recovery of any Heroin from the petitioner.

On the other hand, the learned State counsel has submitted that it is correct that the petitioner is in custody for more than one year and it is also correct that the other co-accused has been granted bail by this Court in the aforesaid case.

I have heard the learned counsels for the parties.

The petitioner has suffered incarceration for more than one year. The other co-accused, namely, Sunny Kumar has been granted bail vide CRM-M-18657-2022. The petitioner is stated to be at parity with the aforesaid co-accused and so far as the applicability of the judgment passed by this Court in Sukhwinder Singh's case (Supra) is concerned, the learned State counsel has not disputed the same. Apart from the same, the petitioner is stated to be not involved in any other case. Therefore, after hearing the learned counsels for the parties, this Court is of the view that the petitioner deserves the concession of regular bail.

Consequently, the present petition is allowed. The petitioner is ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.”

It has not been disputed that the case of the petitioner is at par with co-accused, who have been granted regular bail. The petitioner is in custody for a period of 01 year, 06 months and 10 days and not involved in any other case.

In these set of circumstances, sufficient grounds are made out to extend the concession of bail to the petitioner. Accordingly, without making any observation on the merits of the case, the present petition is allowed and petitioner is ordered to be released on bail, subject to his furnishing bail/surety bonds to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

23.01.2023
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(VIVEK PURI)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether Reportable	: Yes/No