

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

(202)

CRM-M-42865-2023

Date of Decision : November 23, 2023

Gobind Singh**.. Petitioner****Versus****State of Punjab****.. Respondent****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Laghuinder Singh Sekhon, Advocate, for the petitioner.

Mr. Alankar Narula, Assistant Advocate General, Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

1. 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. 123 dated 24.07.2019 registered under Sections 21, 22, 25 and 29 of the NDPS Act, 1985 at Police Station Barnala, District Barnala.

2. Learned counsel for the petitioner argues that in the present case, though the petitioner was named in the secret report but no recovery has been done from him whereas, the recovery of the contraband has been effected from the co-accused Balkar Singh, who has already been extended the benefit of interim bail by the Coordinate Bench of this Court while passing order in CRM-M-12450-2023 on 21.08.2023. Learned counsel for the petitioner submits that once the co-accused from whom the recovery was done, has already been released on interim bail, the petitioner is also

entitled for the grant of regular bail.

3. Learned counsel for the petitioner further submits that in order to state correct facts, the petitioner has also been involved in another FIR being FIR No.334 dated 28.08.2019 in which, he was arrested with the contraband and is yet to get the bail.

4. Notice of motion.

5. Mr. Alankar Narula, learned Assistant Advocate General, Punjab, who is present in the Court, accepts notice on behalf of the respondent-State.

6. Learned State counsel submits that in the present case also, the petitioner was named in the secret information and petitioner was also involved in the present case, which fact has already been corroborated by the co-accused Balkar Singh in his disclosure statement hence, the petitioner was also made accused in the present case though, no recovery has been done from the petitioner in the present case. Learned State counsel further submits that once the petitioner has also been involved in another case where recovery of the contraband has been done from him, he is a habitual offender, hence, the petitioner's claim for the grant of regular bail may kindly be declined.

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

8. The FIR in question is of July 2019. More than four years and four months have passed. The status of the trial is that out of 18 cited prosecution witnesses, only 7 witnesses have been examined so far which shows that the trial is likely to take some time before it concludes. Further, co-accused Balkar Singh, from whom the contraband was recovered, has already been extended the benefit of interim bail by the Coordinate Bench

of this Court in CRM-M-12450 of 2023 on 21.08.2023 by passing the following order:-

“ Learned State counsel seeks time to have instructions in the matter.

Posted on 13.09.2023.

Since petitioner is stated to be in custody for the last four years, therefore, he be released on interim bail till the next date of hearing on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court/Duty Magistrate concerned.”

9. Keeping in view the status of the trial as well as factual averments made hereinbefore, the trial is likely to take some time before it concludes and once, co-accused having serious allegations as compared to the petitioner, has already been granted interim bail, keeping in view the totality of the circumstances especially that no contraband was recovered from the petitioner, the petitioner has made out a case for the grant of regular bail.

10. Qua the argument that petitioner is involved in another case, bail is to be granted qua the facts mentioned in the present case. 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 other case being faced by him.

11. Learned State counsel submits that the present order will be cited as a precedent to get the bail in the other case being faced by the petitioner.

12. It may be noticed that the present order has been passed on its own factual basis and will have no bearing with regard to the grant of bail in other case, which petition/application in case made, will be considered on its own facts and merits.

13. The petitioner is directed to be released on regular bail in this case subject to the satisfaction of the trial Court/Duty Magistrate concerned. It is made clear that as the petitioner concededly has not been granted bail in another case faced by him, the petitioner is not to be released from the jail premises.

November 23, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

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