

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

225

CRM-M-45045-2022 (O&M)

Date of decision: 06.07.2023

Sahil Kumar

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. P.S. Hundal, Sr. Advocate with
Mr. Vikramjeet Singh, Advocate for the petitioner

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

AMAN CHAUDHARY. J.

1. The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in case FIR No.71 dated 27.05.2022, registered under Sections 22(b), 22(c) and 29 of NDPS Act, Sections 25 and 27 of Arms Act and Sections 279 and 427 IPC, at Police Station City Rampura, District Bathinda.

2. Learned Senior counsel contends that the petitioner is in custody for the last 1 year and about 1 month. His name surfaced based on disclosure statement of co-accused Ritik Khanna, from whom commercial quantity of contraband was recovered and he is in custody. There is no recovery effected from the petitioner and no evidence has also emerged to connect the petitioner with the case but for the disclosure statement, which is otherwise 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. The petitioner is involved in one more case, wherein non-commercial quantity of contraband was

recovered and has been granted bail vide order dated 16.08.2022, Annexure P-5 by the Special Court, Patiala. 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. Charges were framed on 29.11.2022, however, none out of 23 prosecution witnesses have been examined. 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 and was granted regular bail after his custody being of almost 9 months.

3. The custody certificate dated 06.07.2023 has been filed by learned State counsel, as per which the petitioner is behind bar since 1 year and 16 days.

4. Learned State counsel opposes the bail on the ground that commercial quantity of contraband has been recovered from the co-accused and the petitioner is involved in one more case, though non-commercial quantity of contraband was recovered from him. He is however unable to controvert the submissions with regard to stage of the case and petitioner being on bail in another case registered against him.

5. 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."

6. Considering the facts and circumstances of the case, in particular that the petitioner is in custody for the last 1 year and 16 days; is involved on basis of disclosure statement; no recovery has been effected from him; is on bail in another case; charges have been framed on 29.11.2022, however, out of 23 prosecution witnesses, none have yet been examined, 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:-

1. The petitioner will not tamper with the evidence during the trial.
2. The petitioner will not pressurize/ intimidate the prosecution witnesses.
3. The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
4. 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.
5. 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.
6. The petitioner shall not in any manner misuse his liberty.
7. 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.
8. The petitioner shall not leave the country without prior permission of the trial Court.
9. 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

July 06, 2023
M.Kamra

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