

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

207

CRM-M-43820-2023 (O&M)

Date of decision: 15.09.2023

Kuldeep Singh @ Sonu

..Petitioner

Versus

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. JS Sandhu, Advocate for the petitioner

Ms. Himani Arora, AAG, 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 FIR No.103 dated 15.12.2022 registered under Section 21(c), 23 of NDPS Act and Section 25 of Arms Act, at Police Station Khui Khera, District Fazilka.

2. Learned counsel contends that the petitioner is in custody for last about 9 months. His name surfaced based on disclosure statement of co-accused Sukhdev Singh from whom 2.5 kg of heroin were recovered. Reliance is placed on the judgment passed by Hon'ble The Supreme Court in **Tofan Singh vs. State of Tamil Nadu**, 2021 (1) RCR (Criminal) 1. No recovery has been effected from the petitioner and there is no other evidence to connect him with the said co-accused and the recovery from him. Challan stands presented on 06.06.2023, however, charges are yet to be framed and in all there are 31 witnesses. He is involved in another case, on disclosure statement, wherein also no recovery has been effected from him. 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.

Further, 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 bail was granted to the accused after a custody of more than 8 months, who was implicated on the basis of disclosure statement, no recovery had been effected from him and he was involved in one more case under the NDPS Act.

3. The custody certificate dated 14.09.2023, filed by learned State counsel is taken on record, as per which, the petitioner is behind bars for 8 months and 25 days.

4. Learned State counsel opposes the bail on the ground that commercial quantity of contraband was recovered from co-accused of the petitioner. She is however unable to controvert the submissions made regarding the stage of the case.

5. Heard.

6. 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."

7. Keeping in view the facts and circumstances of the case, in particular that the petitioner is in custody for last 8 months and 25 days; challan has been presented on 06.06.2023, however, charges are to be framed and in all there are a total of 31 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.

8. 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.

9. 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.

10. 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.

15.09.2023
ashok

(AMAN CHAUDHARY)
JUDGE

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