

2023:PHHC:041094**214 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M-48894-2022**

Date of Decision: 21.03.2023

Balwinder Singh

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Amardeep Singh Mann, Advocate, for the petitioner.

Mr. Karunesh Kaushal, Assistant Advocate General, Punjab.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present petition is for the grant of regular bail to the petitioner in a case FIR No.65 dated 28.02.2021, registered under Section 22 of NDPS Act, 1985 (Sections 29, 61, 85 of NDPS Act added lateron) at Police Station Sadar Mansa, District Mansa.

Adumbrated facts of the case are that on 28.02.2021, when the Police party was patrolling, they spotted a woman coming on foot was holding a bag. On suspicion, she was stopped and a Lady Constable after giving offer under Section 50 of the NDPS Act searched her and the bag being carried. On the search being carried by her, 800 tablets were recovered (80 strips having 10 tablets each). The samples were taken and sent to the FSL. On the registration of formal FIR, the investigation commenced. During the investigation, she disclosed about the involvement of Balwinder Singh, who is none other than the husband of the woman arrested on the spot. As per the information given by her, her husband Balwinder Singh was the supplier of the contraband recovered. Accused Balwinder Singh was arrested on 02.03.2021. He approached the Court of

learned Special Judge, Mansa and released on bail on 03.05.2021. However, the petitioner absented from the Court on 06.08.2022 and thus, his bail bonds were cancelled. Thereafter the petitioner surrendered on 13.09.2022 and approached the Court of learned Special Judge, Mansa for grant of bail, however, after hearing both the sides, the learned Court declined the same vide order dated 29.09.2022. Aggrieved by the same, the petitioner approached this Court by way of filing the present petition for grant of regular bail.

Learned counsel for the petitioner has vehemently contended that the petitioner was falsely implicated in this case. He has submitted that neither the petitioner was named in the FIR nor any recovery was effected from him in this case, however, he was named as an accused on the basis of disclosure statement of his wife, namely, Ranjit Kaur who is allegedly arrested by the Police on 28.02.2021. He submits that thereafter, the petitioner was duly granted regular bail by the learned Special Court vide order dated 03.05.2021, however, on 06.08.2022 he failed to appear before the Court as the petitioner has submitted his personal bonds and the surety produced by him had already withdrawn surety bonds before the date of hearing. He has submitted that the petitioner regularly attended the hearing of the case, however, on account of unavoidable circumstances, he could not appear on one date i.e. 06.08.2022 and thus, his bail granted was cancelled. He has further submitted that the petitioner has been convicted and sentenced under Section 302 IPC for life imprisonment, however, his sentence is already suspended in that case. He submits that even otherwise, the petitioner has been named in this case on the basis of the disclosure statement, which is not admissible evidence, thus, he deserves to be granted

bail.

On the other hand, learned State counsel has opposed the submissions made by learned counsel for the petitioner and has submitted that recovery effected from the co-accused, namely, Ranjit Kaur is commercial quantity and provisions of Section 37 of NDPS Act are attracted. However, he fairly admits that the petitioner was named in this case on the basis of the disclosure statement and he was also granted regular bail by the trial Court on 03.05.2021. He submits that in all there are 16 prosecution witnesses, out of which 7 witnesses already stand examined. He further submits that as per the instructions received from ASI Om Parkash, the petitioner is not involved in any other case under the NDPS Act, however, he is facing prosecution in offences under the Excise Act and Section 302 IPC, wherein, he has been convicted and sentenced for life imprisonment.

Heard.

Evidently, the petitioner is named in the FIR on the basis of disclosure statement. There was no recovery effected from and his name as arrayed as an accused on the basis of disclosure statement made by co-accused i.e. his wife Ranjit Kaur. The petitioner was granted regular bail by this Court on 03.05.2021, however, he remained absent on one date i.e. 06.08.2022 and thus, his bail was cancelled. As submitted by learned State counsel, out of total 16 prosecution witnesses, 7 witnesses have already been examined. In the facts and circumstances of the case, where the petitioner has been named on the basis of disclosure statement, whether the provisions of Section 37 of the NDPS Act would be attracted or not, is debatable. The Court would refrain itself from commenting anything on the merits of the case. Veracity of the allegations would be evaluated by the

learned trial Court on the basis of the evidence to be led by both the parties before it. 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 for 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.

21.03.2023			(RAJESH BHARDWAJ)
sharmila			JUDGE
	Whether Speaking/Reasoned	:	Yes/No
	Whether Reportable	:	Yes/No