

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

220**CRM-M-49126-2023 (O&M)****Date of Decision: 04.10.2023**

Sunny Verma @ Sanny

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Imran Farooqi, Advocate for the petitioner.

Mr. Sarabjit Singh Cheema, DAG Punjab.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in FIR No.91 dated 02.04.2022, under Sections 22, 61, 85 of the NDPS Act, registered at Police Station City-1 Malerkotla, District Malerkotla, Punjab.

2. Learned counsel for the petitioner has submitted that the petitioner is in custody for 01 year and 05 months. He submitted that in the present case after the completion of the investigation, challan was presented and charges were framed on 18.12.2020. He submitted that the allegation against the petitioner and other co-accused, namely, Mohammad Sameer was that they were caught along with 65 vials of Cocrex, which otherwise falls in the commercial quantity under the NDPS Act but considering the facts and circumstances of the present case, the case of the petitioner is not

barred by the provisions of Section 37 of the NDPS Act. He submitted that petitioner is not involved in any other case and has got clean antecedents. He submitted that aforesaid co-accused, namely, Mohammad Sameer, who is at parity with the petitioner has already been extended the benefit of regular bail by this Court vide order dated 11.08.2023 (Annexure P-2). He submitted that one of the grounds on which the aforesaid co-accused was granted bail was that the charges were framed on 09.11.2022 and even after a lapse of almost 09 months not even a single witness was examined. He submitted that after passing of the order dated 11.08.2023, only one witness who deposited the sample in the Forensic Science Laboratory has been examined till date and now more than 10 months have elapsed after framing of charges but no material witness has been examined.

3. Learned counsel for the petitioner has further submitted that while granting bail to aforesaid co-accused, namely, Mohammad Sameer, who is at parity with the present petitioner, this Court has considered the law laid down by the Hon'ble Supreme Court in ***Satender Kumar Antil Versus Central Bureau of Investigation and another [2022 (10) SCC 51]***, ***Mohd. Muslim @ Hussain Versus State (NCT of Delhi) [2023 AIR (SC) 1648]***, ***Dheeraj Kumar Shukla v. The State of Uttar Pradesh (Special Leave to Appeal (Crl.) No.(s) 6690 of 2022)*** and ***Rabi Prakash Versus State of Odisha, Special Leave to Appeal (Crl.) No.4169 of 2023***.

4. On the other hand, Mr. Sarabjit Singh Cheema, DAG Punjab submitted that the petitioner is in custody for 01 year and 05 months and

aforesaid co-accused has been extended the benefit of regular bail by this Court. He submitted that now one witness, who was the depositor of the sample, has been examined after granting bail to the co-accused. So far as the antecedents of the present petitioner are concerned, he submitted that the petitioner is not involved in any other case.

5. I have heard the learned counsel for the parties.

6. The petitioner is in custody for 01 year and 05 months and the petitioner is stated to be not involved in any other case, as per the learned counsel for the parties. This Court while granting bail to aforesaid co-accused, namely, Mohammad Sameer, vide Annexure P-2 has discussed in detail that no prosecution witness was examined at that point of time despite the fact thatailable warrants were issued against the prosecution witnesses.

7. After considering the judgments passed by the Hon'ble Supreme Court in *Satender Kumar Antil Versus Central Bureau of Investigation and another (Supra)*, *Mohd. Muslim @ Hussain (Supra)*, *Dheeraj Kumar Shukla (supra)* and *Rabi Prakash Versus State of Odisha (Supra)* this Court has granted bail to aforesaid co-accused, namely, Mohammad Sameer. The factual position remains the same qua the present petitioner, except that now as per the learned counsel for the parties, only one formal witness, who was the sample depositor has been examined but no material witness has been examined and therefore, this Court is of the view that the petitioner is at parity with aforesaid co-accused, namely, Mohammad Sameer, who has been extended the benefit of regular bail by

this Court vide order dated 11.08.2023.

8. Consequently, the present petition is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned, if not required in any other case.

9. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

(JASGURPREET SINGH PURI)
JUDGE

04.10.2023
Mangal Singh

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