

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

231

CRM-M-49702-2023(O&M)

Date of decision: 09.10.2023

Virender

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Saleem Malik, Advocate for
Mr. DD Sharma, Advocate for the petitioner.

Mr. Baljinder Singh Virk, Sr. DAG, Haryana.

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.412 dated 18.12.2022 registered under Sections 22 and 29 of NDPS Act, 1985 at Police Station Industrial Area, Bhiwani, District Bhiwani.
2. Learned counsel contends that the petitioner is in custody for last about 10 months. His name surfaced based on the disclosure statement of co-accused-Pardeep, from whom commercial quantity of contraband was recovered. However, no recovery was effected from the petitioner. He is unconnected to the said co-accused and has been falsely implicated. Charges were framed on 04.10.2023 and out of 17 prosecution witnesses, none has been examined. The petitioner is not involved in any other case under the NDPS Act. 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 the accused, who was implicated on the basis of disclosure statement and no recovery had been effected from him, was granted bail, after being in custody for almost 9 months.

3. The custody certificate dated 08.10.2023, filed by learned State counsel is taken on record, as per which, the petitioner is behind bars for 9 months and 16 days.

4. Learned State counsel opposes the bail on the ground that the co-accused, who was apprehended at the spot and commercial quantity of contraband was recovered from him, has stated the petitioner to be a supplier of the said contraband. He is however unable to controvert the submissions made regarding the stage of the case and petitioner being not involved in any other case under the NDPS Act.

5. Heard.

6. Considering the facts and circumstances of the case, in particular that the petitioner is in custody for last 9 months and 16 days; no recovery has been effected from him; not involved in any other case under the NDPS Act; charges have been framed on 04.10.2023 and none out of a total of 17 prosecution witnesses, has been examined so far; the trial is likely to take a considerable time, 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:-

- (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.

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.

09.10.2023
ashok

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No