

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

CRM-M-53270-2022 (O&M)

Date of decision: 07.02.2023

Gurcharan Singh @ Chana

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Jagjot Singh Lalli, Advocate
for the petitioner.

Mr. Ajit Singh Natt, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

This is the second petition that has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in FIR No. 37 dated 08.02.2019, registered under Sections 21, 22 and 25 of the Narcotic Drugs & Psychotropic Substances Act, 1985 at Police Station Ajnala, District Amritsar.

The first petition, bearing CRM-M-20565-2019, was moved for grant of interim bail awaiting the FSL report and the same was disposed of on 10.05.2019.

Learned counsel for the petitioner submits that the new grounds for filing the present petition are that the petitioner is in judicial custody for 01 year, 01 month and 12 days; he has not misused the concession of interim bail and has surrendered back in time after the receipt of the FSL report and the trial is substantially delayed due to Covid-19 situation as out of total 09 prosecution witnesses, only 01 witness has been examined so far.

Learned counsel for the petitioner submits that as per allegations in the FIR, registered at the instance of ASI Jasbir Singh, it is stated that while on a patrol duty, a person was seen coming on a motorcycle, which had no number plate, and on seeing the police party, he slowed down his motorcycle and tried to turn the same towards the water canal and also tried to throw a heavy transparent polythene bag, which he was holding in his hand, however, he was apprehended by the police. On inquiry, he disclosed his name as 'Gurcharan Singh @ Channa' i.e. the petitioner. He further disclosed that the said bag was containing intoxicant tablets and thereafter, information was sent to the police station and Inspector Paramjit Singh came at the spot and on search of the said bag, 1392 loose intoxicant tablets were recovered.

Learned counsel for the petitioner further submits that once the information was sent to the police station with regard to suspicion by the first Investigating Officer ASI Jasbir Singh, it will be a matter of trial whether before effecting recovery by Inspector Paramjit Singh, the procedure prescribed under Section 50 of the NDSP Act was required to be followed or not.

It is further submitted that there are other discrepancies in the investigation carried out at the spot and since conclusion of trial is likely to take a long time, the petitioner may be enlarged on regular bail.

Learned State counsel has filed the custody certificate, as per which, the petitioner is in judicial custody for 01 year, 01 month and 12 days. It is not disputed that only 01 prosecution witness has been examined so far.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the fact that the petitioner is in long judicial custody; he has not misused the concession of interim bail granted to him awaiting the FSL report and also in view of the fact that conclusion of the trial is likely to take a long time as only 01 prosecution witness has been examined so far, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaqa Magistrate, concerned.

07.02.2023
Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No