

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

203

CRM-M-56478-2022 (O&M)

Date of decision: 15.06.2023

Balvinder Singh

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Vikas Gulia Advocate for the petitioner

Mr. Dhruv Sihag, AAG Haryana

AMAN CHAUDHARY. J.

1. The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in case FIR No.417 dated 18.07.2022, registered under Section 20 NDPS Act at Police Station Tehsil Camp, District Panipat.

2. Learned counsel contends that the petitioner is in custody for the last about 11 months. The alleged recovery effected from him was of non-commercial quantity being 2 kg and 725 grams of ganja. He is involved in three other cases, out of which, in two cases, recovery was of small quantity, he stands acquitted and in the other, involving non-commercial quantity of contraband, he is on bail vide order dated 14.02.2021. Only 2 out of 18 witnesses have been examined. He relies 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.

3. Learned State counsel opposes the bail on the ground that the non-commercial quantity of contraband was recovered from the petitioner and he is involved in three more cases. He is, however, unable to controvert the submissions

regarding the custody, stage of the trial and that he stands acquitted in two FIRs and one case is still pending.

4. Heard.

5. Hon'ble The Supreme Court of India 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".

6. In view of the afore-referred judgment and facts and circumstances of the case, in particular that the petitioner is in custody for the last 11 months; the alleged recovery is non-commercial, he is on bail in another case lodged against him, out of 18 witnesses only 2 have been examined so far; the alleged recovery effected from the petitioner is non-commercial in nature therefore, rigors of Section 37 of NDPS Act are not attracted in the present case; the trial is likely to take considerable time and his further incarceration would not serve any useful purpose, thus 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 him not being required in any other case. The petitioner shall abide by the following conditions:-

- 1.The petitioner will not tamper with the evidence during the trial.
- 2.The petitioner will not pressurize/ intimidate the prosecution witnesses.
- 3.The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
- 4.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.

5.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.

6.The petitioner shall not in any manner misuse his liberty.

7.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.

8.The petitioner shall deposit his passport, if any, with the Trial Court forthwith and in case, he does not have the passport, he shall furnish a specific affidavit in this regard.

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.

(AMAN CHAUDHARY)
JUDGE

15.06.2023
S.Sharma(syr)

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