

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

243

CRM-M-54695-2023

Date of decision: 07.11.2023

Vijay Singh

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Daljeet Singh Virk, Advocate for the petitioner

Mr. Jagdish Manchanda, Addl. AG, Haryana.

AMAN CHAUDHARY, J.

1. Prayer in the present petition filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in case FIR No.305, dated 21.10.2022, registered under Sections 21(c) and 29 of NDPS Act, 1985 at Police Station Ding, District Sirsa.

2. Learned counsel contends that the petitioner is in custody for the last 11 months. His name surfaced based on the disclosure statement of co-accused Gulam Nabi @ Gami and Saddam, who are in custody. No recovery has been effected from the petitioner and besides the aforesaid, there is no other incriminating evidence against him. Co-accused Yakub Khan, who is similarly situated to the petitioner, has been granted regular bail by this Court after 11 months of custody vide order dated 19.10.2023. He relies upon judgment passed by Hon'ble The Supreme Court in the case of **Tofan Singh vs. State of Tamil Nadu**, 2021 (1) RCR (CrI.) 1. Charges were framed on 09.10.2023. Out of 28 prosecution witnesses, none has been examined till date. The next date of hearing

before the trial Court for prosecution evidence, is 03.01.2024. He also relies on the order passed by this Court in **Sandeep Kumar @ Gogi vs. State of Haryana** in CRM-M-24505-2022 decided on 07.12.2022, wherein the petitioner was granted bail after a custody of almost 9 months, on his having implicated on the basis of disclosure statement and no recovery had been effected from him. He is involved in 2 more cases under NDPS Act, however, on disclosure statement, wherein the recovery effected from co-accused are of 6.06 grams and 6.36 grams, in which, petitioner is on bail. Reliance is placed 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. The custody certificate dated 06.11.2023 has been filed by learned State counsel. As per the same, the petitioner is behind bars for 11 months and 1 day.

4. Learned State counsel opposes the bail on the ground that co-accused namely Gulam Nabi @ Gami and Saddam, from whom 1 kg of Heroin i.e. 500 grams each was recovered and specifically named the petitioner in their disclosure statements. He is however unable to controvert the submissions with regard to stage of the case, co-accused has been granted bail and the petitioner being on bail in other cases.

5. Heard.

6. Hon'ble The Supreme Court 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.”

7. Considering the facts and circumstances of the case, in particular that the petitioner is in custody for the last 11 months and 1 day; no recovery effected from him; co-accused having been granted bail; charges were framed on 09.10.2023; out of 28 prosecution witnesses, none has been examined, 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.

8. 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.

9. 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.

10. 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

07.11.2023
Ankur

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