

222

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-55498-2023 (O&M)

Date of Decision: 09.11.2023

Kuldeep Singh @ Keepa

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Prince Singh, Advocate, for the petitioner.

Mr. Gurdarshan Singh Sidhu, AAG, 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.074 dated 11.03.2022, under Sections 15, 18, 20, 20-C, 25 and 29 of NDPS Act, registered at Police Station Sahnewal, District Police Commissionerate Ludhiana.

2. Learned counsel for the petitioner has submitted that the petitioner is in custody for 1 year, 7 months and 27 days. He submitted that as per the allegations the police received a secret information with regard to the fact that there were two trucks which were coming and there is a possibility that they are carrying some intoxicant substance. The first truck i.e PB-23M-5617 which the petitioner was driving was followed by one more truck i.e. PB-10CW-6731 and both the trucks were intercepted and there was no recovery from the truck which the petitioner was driving whereas from the other truck there was

recovery of 2 quintals of Ganja, 3 kgs. of Poppy Husk and 500 grams of Opium. He submitted that both the trucks have got no inter-connection with each other and the other person who was sitting in the truck namely, Gurjit Singh has already been extended the benefit of bail by this Court vide Annexure P-3 on 28.08.2023. He further submitted that petitioner is not involved in any other case and has got clean antecedents and he is exactly at parity with the aforesaid co-accused.

3. Learned counsel further submitted that even otherwise the aforesaid co-accused Gurjit Singh has been granted bail also on the ground that there had been delay in the trial because only one witness has been examined and that too partly because his examination-in-chief has been recorded. Despite the fact that the charges were framed on 19.09.2022. He submitted that more than 1 year and 1½ months have elapsed after the framing of the charges and the stage of the trial remains the same and only one witness has been examined and that too partly since he did not further appear for cross-examination. He further submitted that considering the aforesaid conduct of the police officials who are the prosecution witnesses for not deposing before the Court and not subjecting themselves to cross-examination and also considering the clean antecedents of the petitioner and also in view of the fact that no recovery has been effected from the truck in which the petitioner was travelling, the bar of Section 37 of the NDPS Act will not apply to the petitioner.

4. On the other hand, Mr. Gurdarshan Singh Sidhu, AAG, Punjab has submitted that so far as the custody of the petitioner is concerned, the same is correct and it is also correct that the petitioner is not involved in any other case and he is also at parity with the aforesaid co-accused Gurjit

Singh.

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

6. This Court had an occasion to deal with a bail petition of the co-accused namely, Gurjit Singh and this Court had granted bail to him primarily on the ground that more than 1 year has elapsed after the framing of the charges but only one prosecution witness has been examined and that too in part and thereafter, he did not subject himself to cross-examination and this Court referred to various judgments of 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, 2023 SCC Online SC 918* and *Rabi Prakash Versus State of Odisha, Special Leave to Appeal (Crl.) No.4169 of 2023* and granted bail to the aforesaid co-accused in the light of Article 21 of the Constitution of India.

7. It is not disputed that the petitioner is at parity with the aforesaid co-accused and also the petitioner is not involved in any other case and has no criminal background. Therefore, this Court is of the view that the petitioner is exactly at parity with the aforesaid co-accused namely, Gurjit Singh and qua the petitioner as well, the bar of Section 37 of the NDPS Act will not apply in the light of 21 of the Constitution of India as well as the aforesaid judgments of the Hon'ble Supreme Court pertaining to the long custody and delayed trial.

8. In view of the aforesaid facts and circumstances, 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.

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.

09.11.2023

rakesh

(JASGURPREET SINGH PURI)

JUDGE

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