

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-60390 of 2022(O&M)
Date of Decision: 16.05.2023

Abdul Rashid Beigh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Vipin Mahajan, Advocate
For the petitioner.

Mr. C.L. Pawar, Addl. AG Punjab.

KARAMJIT SINGH, J.

1. The present petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case having FIR No. 142 dated 03.11.2017, registered under Sections 15 and 29 of Narcotic Drugs and Psychotropic Substances Act (for brevity, the Act) at Police Station Division No.2, Pathankot.

2. The allegations in nutshell are that police received secret information on 03.11.2017 and thereafter apprehended Ahmed Gani, Abdul Gani, Shokat Ali and Jahangir along with two vehicles and 52 kgs of poppy husk. The name of petitioner Abdul Rashid Beigh surfaced in the disclosure statement of co-accused and then the petitioner was nominated as accused. However, the police failed to arrest him and finally the petitioner was

declared as proclaimed offender and was finally arrested on 28.10.2022 but no contraband was recovered from the possession of the petitioner.

3. The counsel for the petitioner, *inter alia*, contends that the petitioner was not named in the FIR and lateron nominated as accused on the basis of disclosure statement made by co-accused and veracity and admissibility of the said disclosure statement will be tested during trial. The counsel for the petitioner further submits that the petitioner is in custody since 28.10.2022 and no incriminating article was recovered from his possession. The counsel for the petitioner further submits that police has presented challan but the trial is not progressing and it will take considerable time for the trial to conclude. So, prayer is made that the petitioner be released on bail.

4. The present petition is resisted by the State counsel who submits that four persons were arrested by the police along with 52 kgs of poppy husk on 03.11.2017 and the name of the petitioner surfaced in the disclosure statement made by one of the aforesaid co-accused and the petitioner was arraigned as accused but he absconded and was declared a proclaimed person and lateron arrested on 28.10.2022. However, the State counsel has not disputed the fact that no contraband was recovered from the possession of the petitioner and that after presentation of supplementary challan till date no prosecution witness has been examined.

5. I have considered the submissions made by counsel for the parties.

6. Admittedly, the petitioner was not named in the FIR and the recovery of 52 kgs of poppy husk was effected from four persons who are

named in the FIR. The petitioner was nominated as accused on the basis of disclosure statement made by co-accused and the said disclosure statement is subject matter of trial. Further no contraband was recovered at the instance of the petitioner who is in custody since 28.10.2022. It is apparent that the trial against the petitioner is not progressing ahead and it will take considerable time for the trial to conclude. In the given circumstances, no purpose is going to be served by detaining the petitioner in custody for any longer period.

7. In light of above, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

16.05.2023

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(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No