

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-60489-2022
Date of Decision: 11.09.2023

Shekhar Singh @ Shera
...Petitioner

Versus

State of Punjab
...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present:- Mr. Dilpreet Singh Gandhi, Advocate,
for the petitioner.

Mr. Digvijay Nagpal, AAG, Punjab.

VIKAS SURI, J.

[1] This is a petition filed under Section 439 Cr.P.C. seeking regular bail in case FIR No.83 dated 17.05.2022, under Sections 21 & 29 of NDPS Act and Section 25 of Arms Act, registered at Police Station Division No.5, District Jalandhar.

[2] Learned counsel for the petitioner submits that petitioner is innocent and has been falsely implicated in the present case on the basis of disclosure statement suffered by co-accused Deepak Kapoor @ Deepu, from whom 1 Kg. and 50 grams of heroin, Rs.1,72,250/- in cash, besides a pistol with .32 bore magazine were recovered. It is further submitted that there is no evidence to connect the petitioner with the alleged recovery and nothing

has been recovered from his possession at the time of his arrest by the police. Learned counsel places reliance on final orders passed in CRM-M-51138-2022, CRM-M-41239-2022, CRM-M-30512-2022 and CRM-M-39406-2022 to contend that similarly placed co-accused Gurdev Singh @ Gurdev Bhagat @ Bittu Baba, Harpal Singh @ Bhalu, Narinder Kumar @ Tinka and Brijesh Kumar @ Bunty, who too were nominated in this case on the basis of same disclosure statement have been extended the benefit of regular bail by coordinate Benches of this Court.

[3] Learned counsel for the petitioner further submits that the petitioner is in custody since 28.05.2022; *challan* has been presented, accused have been charge-sheeted and out of 11 prosecution witnesses cited, none has been examined so far. Thus, trial would take long time to conclude. He, therefore, contends that no useful purpose would be served by detaining petitioner behind bars any further and prays for his release on bail on any conditions that may be imposed.

[4] Learned State counsel has filed the custody certificate dated 19.09.2023 of the petitioner in Court today, which is taken on record. A copy thereof furnished to learned counsel for the petitioner. Learned State counsel vehemently opposes the present petition by contending that petitioner is a habitual offender and is involved in two other cases under the NDPS Act besides three other cases under various provisions of Indian Penal Code. He further submits that petitioner is member of a larger gang repeatedly involved in offences under the NDPS Act and deserves no

leniency and prays for dismissal of his bail application. However, he is unable to dispute the other factual aspects noticed above.

[5] In rebuttal, learned counsel for the petitioner submits that out of two other cases, in the one under NDPS Act, petitioner has already been sentenced to undergo the period already spent in custody vide Judgment dated 02.12.2017 and in other case, he is on bail. He further submits that out of three other cases under the provisions of IPC, petitioner has completed sentence in one case and he is on bail in remaining two. In support of his contentions, learned counsel has relied upon the judgment of Apex Court in ***Tofan Singh vs. State of Tamil Nadu, (2021) 4 SCC 1.***

[6] Heard rival contentions of learned counsel for the parties.

[7] Keeping in view the law laid down by the Apex Court in ***Tofan Singh's case*** (supra) and the fact that the petitioner is in custody since 28.05.2022; no recovery has been effected from the petitioner; and similarly placed co-accused, who were also nominated on the basis of disclosure statement, have been granted the concession of regular bail by this Court; the trial is likely to take considerable time to conclude, as on date, none of the prosecution witnesses cited has been examined; and no useful purpose would be served by detaining him behind bars for an indefinite period.

[8] Accordingly, the instant petition is allowed and the petitioner is ordered to be released on regular bail subject to his execution of adequate personal bond and furnishing surety/sureties to the satisfaction of concerned trial Court/Duty Magistrate.

[9] However, anything observed hereinabove is only for the purpose of instant petition and is neither an expression on the merits of the case nor shall the trial Court advert to these comments.

September 11, 2023
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(VIKAS SURI)
JUDGE

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