

255

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-6188-2024
Date of Decision: 04.03.2024

Sona Singh

..... Petitioner

Versus

The State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Satham Singh, Advocate for
Mr. Vidit Bansal, Advocate,
for the petitioner.

Mr. Rohit Ahuja, DAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present is a fourth petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing FIR No.124 dated 12.09.2021, under Sections 21, 29, 61 & 85 of the NDPS Act, 1985, registered at Police Station Sadar Moga, District Moga.
2. It has been submitted by learned counsel for the petitioner that the first bail petition was dismissed on merits by this Court vide order dated 15.07.2022 (Annexure P-6) which was decided by way of a common order with regard to two more co-accused, since they were inter-connected petitions pertaining to same FIR. He submitted that the second bail petition of the petitioner was withdrawn by him and the third petition was filed by the petitioner only for grant of interim regular bail to attend the Bhog Ceremony of his mother. The learned counsel submitted that the petitioner is

in custody for 2 years 2 months and 3 days and the allegation against the petitioner is that police had recovered 2 kgs. of *Heroin* from India-Pakistan border and it was thereafter that the police had apprehended the petitioner from whom there was a recovery of only 20 grams of *Heroin*. He further submitted that in fact the present case has been planted upon the petitioner in view of the fact that earlier he was involved in one more case under the NDPS Act which was also of small quantity and he was convicted for a period of one year and in order to justify the aforesaid confiscation at the border, the present case has been planted upon him. He submitted that be that as it may, the aforesaid two more co-accused, namely, Karaj Singh and Amarjeet Singh @ Ambi @ Jaspal @ Pali whose bail petitions were also dismissed by way of common order vide Annexure P-6, they thereafter moved separate petitions bearing CRM-M-44686-2022 and CRM-M-41207-2023, respectively, for grant of regular bail before this Court and this Court had allowed their bail petitions vide common order dated 10.01.2024 (Annexure P-4). He further submitted that primary ground on the basis of which the bail petitions of the aforesaid co-accused were allowed, was that more than 1½ years had elapsed after the framing of the charges, not even a single witness was examined and while referring to the judgments of the Hon'ble Supreme Court in "Satender Kumar Antil Vs. Central Bureau of Investigation and another", 2022(10) SCC 51, "Dheeraj Kumar Shukla Vs. The State of Uttar Pradesh" 2023 SCC Online SC 918 and "Rabi Prakash Vs. The State of Odisha" in *Special Leave to Appeal (Criminal) No.4169 of 2023*, this Court had granted regular bail to the aforesaid co-accused. He submitted that rather one of the aforesaid co-accused, namely, Karaj Singh

from whom there was a recovery of one mobile phone, wherein there was some mobile numbers of Pakistan and he has been granted bail by this Court in the month of January, 2024. He submitted that in fact when this Court had granted bail thereafter some of the prosecution witnesses have been examined but the petitioner is not only at parity with the aforesaid co-accused, who have been granted bail, but rather at a better footing. He submitted that considering the aforesaid facts and circumstances and also considering the custody of the petitioner, he may be considered for grant of regular bail.

3. On the other hand, Mr. Rohit Ahuja, learned DAG, Punjab submitted that so far as the custody of the petitioner is concerned, the same is correct and it is also correct that the aforesaid co-accused, namely, Karaj Singh and Amarjeet Singh @ Ambi @ Jaspal @ Pali have already been granted regular bail by this Court on 10.01.2024 vide Annexure P-4. He has however submitted that now 2 prosecution witnesses have already been examined and 3 prosecution witnesses have been given up and also submitted that since the petitioner is convicted in one more case under the NDPS Act although for a period of one year, he does not deserve the concession of regular bail. He submitted that so far as the recovery from the petitioner is concerned, it was 20 grams of *Heroin*.

4. I have heard the learned counsels for the parties.

5. As per the learned counsels for the parties, the total custody of the petitioner has come out to be 2 years 2 months and 3 days and the other co-accused, namely, Karaj Singh and Amarjeet Singh @ Ambi @ Jaspal @ Pali have already been granted regular bail vide Annexure P-4. The

CRM-M-6188-2024

allegation against the petitioner is that there was a recovery of 20 grams *Heroin* from him and he was arrested as a consequence of some other recovery of 2 kgs. of *Heroin* from India-Pakistan border. The mere fact that the petitioner was involved in one more case under the NDPS Act and he stands convicted for a period of one year, cannot disentitle him for grant of regular bail. Therefore, considering the custody of the petitioner and the fact that the other co-accused have already been released on regular bail by this Court vide Annexure P-4, this Court deems it fit and proper to grant regular bail to the petitioner on the same footing as that of the aforesaid two co-accused, in the light of Article 21 of the Constitution of India.

6. Consequently, the present petition is allowed and the petitioner is ordered to be released on regular bail on furnishing bail bond/surety bond to the satisfaction of the trial Court/Duty Magistrate concerned, if not required in any other case.

7. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

04.03.2024 (JASGURPREET SINGH PURI)
Bhumika JUDGE

- | | |
|-------------------------------|--------|
| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |