

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

CRM-M-10256-2024

Decided On: 01.03.2024

GURPREET SINGH @ GABBAR

.....PETITIONER(s)

Versus

STATE OF PUNJAB

.....RESPONDENT(s)

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Lakshay Bector, Advocate
for the petitioner.

Mr. Sanjeev Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J.(Oral)

1. The instant petition filed under Section 439 of Code of Criminal Procedure is for grant of regular bail to the petitioner, in case bearing FIR No.82 dated 15.04.2017 (Annexure P-1) registered under Section 22 of NDPC Act at Police Station Sadar Jagraon, District Ludhiana.

2. The present FIR was registered on the allegations that 15.04.2017, the police party was on petrolling duty for intercepting the anti social elements and in the meantime, one person was seen coming on foot and after sighting the police party, he became perplexed and on the basis of suspicion, he was stopped by the police party, who disclosed his identity as Gurpreet Singh @ Gabbar (petitioner herein) and after conducting search, 100 grams of intoxicating powder was recovered from his possession and the FIR was registered under Section 22 of NDPS Act.

3. Learned counsel for the petitioner *inter alia* contends that the alleged contraband recovered from the possession of the petitioner does not fall within the ambit of commercial quantity and he was granted bail by the Learned Trial Court on 03.06.2017 (Annexure P-2). Thereafter, the petitioner has been regularly attending the Court and on 01.02.2020, he was not feeling well, as such he moved an application for exemption from personal appearance, which was allowed by the learned trial Court on 01.02.2020 (Annexure P-4). Thereafter, due to the outbreak of the Covid-19, the regular working of the Court was stopped and cases were adjourned from time to time. Due to non appearance, his bail bonds were cancelled and surety bonds were forfeited and ultimately, the petitioner was declared as Proclaimed Offender. When the petitioner came to know that he has been declared Proclaimed Offender, on the very same day, he himself surrendered before the learned trial Court. He is in custody since, 25.07.2023 and now, he has undergone more than 08 months.

4. Per contra, the learned State counsel has produced the custody certificate and on instructions from ASI John Masih, opposes the prayer of grant of regular bail to the petitioner on the ground that the petitioner absented himself and he was declared Proclaimed Offender. He is a habitual offender as he is involved in 02 more cases and is not entitled for grant of regular bail.

5. Having heard the learned counsel for the parties and after perusing the record of the case, it transpires that the investigation is complete. The trial of this case is progressing at a snail's pace as out of total 12 witnesses cited by the prosecution only 04 have been examined so far. Keeping the petitioner in further detention, without the prospect of the trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India.

6. Keeping in view the law laid down by the Hon’ble Supreme Court of India in ‘Prabhakar Tewari Vs. State of U.P. and another’ 2020 (1) R.C.R. (Criminal 831) and ‘Maulana Mohd. Amir Rashadi Vs. State of U.P. and Another’, 2012 (2) SCC 382, the involvement of the petitioner in other cases would not be a ground to refuse grant of concession of regular bail.
7. Keeping in view the facts and circumstances of the case, the present petition is allowed without commenting upon the merits of the case lest it may prejudice the outcome of the trial and the petitioner-Gurpreet Singh @ Gabbar is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.
8. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

01.03.2024

Aman Dua

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned?
Whether reportable?

Yes/No
Yes/No